

Title 19 NYCRR Part 936 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] COMMISSION ON PUBLIC
INTEGRITY

PART 936

[EXTENSION OF] TIME EXTENSION FOR FILING A FINANCIAL DISCLOSURE
STATEMENT [DUE TO JUSTIFIABLE CAUSE OR UNDUE HARDSHIP OR
AUTOMATIC EXTENSION OF TIME TO FILE]

936.1 Applicability.

This part shall apply to the following individuals:

- (a) the four statewide elected officials;
- (b) State officers or employees; and
- (c) political party chairmen;

who are required to file an annual statement of financial disclosure pursuant to section 73-a of the Public Officers Law.

936.2 Definitions.

- (a) *Commission* shall mean the New York State [Ethics] Commission on Public Integrity [created by section 94 of the Executive Law, which may delegate the authority to act described by these rules and regulations to its executive director].
- (b) *Covered individual* shall mean an individual who is required to file an annual statement of financial disclosure with the [c]Commission pursuant to section 73-a of the Public Officers Law.
- (c) *Filing rate* shall mean the job rate of SG-24 as set forth in [paragraph a of subdivision one of] section 130(1)(a) of the Civil Service Law as of April first of the year in which a financial disclosure statement shall be filed.

(d) *Financial disclosure statement* shall mean the annual statement of financial disclosure required to be filed pursuant to section 73-a of the Public Officers Law.

(e) *Political party chairman* shall have the same meaning ascribed to such term by [paragraph (k) of subdivision one of] section 73 (1)(k) of the Public Officers Law.

(f) *State officer or employee* shall mean:

(1) heads of State departments and their deputies and assistants;

(2) officers and employees of statewide elected officials, officers and employees of State departments, boards, bureaus, divisions, commissions, councils or other State agencies, who:

(i) receive annual compensation in excess of the filing rate; and

(ii) have not been exempted from filing a financial disclosure statement; or

(iii) hold policymaking positions as determined by the appropriate appointing authority; and

(3) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, and those employees of such authorities, corporations and commissions, who:

(i) receive annual compensation in excess of the filing rate; and

(ii) have not been exempted from filing a financial disclosure statement; or

(iii) who hold policy-making positions as determined by the appropriate appointing authority.

(g) *Statewide elected official* shall mean the Governor, Lieutenant Governor, Comptroller and Attorney General.

936.3 Basis for extension.

A covered individual may be granted an extension of time within which to file a financial disclosure statement with the [State Ethics] Commission only upon a showing of:

(a) justifiable cause; or

(b) undue hardship.

936.4 Procedure.

(a) A covered individual may request an extension of time within which to file the financial disclosure statement, due by May 15[th], with the [c]Commission. Such request for extension must be postmarked, or the delivery to the [c]Commission must be made, no later than May [5 th] 1 of the year in which the financial disclosure statement is to be filed.

(b) In the event an individual, through hiring, appointment, promotion, election or other designation, becomes a covered individual on or after April 15 [th] of the year in which such statement is required, that individual shall file such statement with the [c]Commission within thirty days after such event. Such covered individual may request an extension of time for filing a financial disclosure statement, and such request [must be postmarked or delivery to the commission] must be [made] received by the Commission, at any time within the thirty-day filing period.

(c) The request for an extension of time to file must contain the following information:

(1) the name of the covered individual, home address and work address;

(2) the title(s) of the position or job classification(s) under which the individual is employed, and the appropriate title code;

(3) documentation of justifiable cause or undue hardship in the form of a written statement with copies of any necessary supporting documents the covered individual wishes the [c]Commission to consider in granting or denying the request; and

(4) the specific period of time for which the covered individual wishes to be granted an extension, set forth with a date certain upon which the covered individual intends to comply with the filing requirement; provided, however, that no extension of time to file under these rules and regulations for statements due by May 15 [th] shall extend beyond June 30 [th] of the year in which the filing of such annual statement is required. No extension of time to file statements from individuals who are hired, appointed, elected or otherwise designated as a covered individual on or after April [15 th] 1 of the year in which the financial disclosure statement must be filed, shall extend beyond 45 days from the date on which the filing would otherwise be required.

[(d) The request for extension shall be mailed to the commission by certified mail or shall be delivered by hand and, upon request, a receipt may be issued upon acceptance of such delivery.]

(e) Justifiable cause or undue hardship shall not include periods of vacation, attendance at conferences or meetings or other prescheduled or voluntary absences.

936.5 Commission action.

(a) Upon receipt of a timely request from a covered individual for an extension in which to file a financial disclosure statement, the [c]Commission shall review the material filed to determine whether there has been a showing of justifiable cause or undue hardship.

(b) The [c]Commission may request additional information from the covered individual who submitted the request. Such individual shall submit the additional information to the [c]Commission within seven business days [by certified mail or delivery by hand to the commission]. In the event the [c]Commission does not receive the additional information within 7 business days, the [c]Commission may make a determination on the basis of the information it has available.

(c) The [c]Commission shall notify the covered individual of its determination on the request for extension to file the financial disclosure statement.

(1) In the event the request for an extension of time to file the financial disclosure statement is approved, such statement shall be filed on the date indicated by the [c]Commission in its determination of approval issued to the covered individual.

(2) In the event the request for an extension of time to file the financial disclosure statement is denied for failure to show justifiable cause or undue hardship, the covered individual must file the financial disclosure statement by May 15 [th] or such date thereafter indicated by the [c]Commission in its determination of denial issued to the covered individual.

936.6 Automatic extension.

(a) In the event a covered individual timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year, such individual shall file with the [c]Commission, with respect to any item of the annual statement, a written statement that such information is lacking from such annual statement but will be supplied in a supplementary statement of financial disclosure on or before the seventh day after the expiration of the period of such automatic extension of time to file such income tax return.

(b) The written statement filed with the [c]Commission concerning an automatic extension of time to file must contain the following information:

(1) the name of the covered individual, home address and work address;

(2) the title(s) of the position or job classification(s) under which the individual is employed, and the appropriate title code;

(3) a copy of the application for automatic extension to file an income tax return; and

(4) a description of the information [which] that is lacking in the filed annual statement due to the application of an automatic extension to file an income tax return with the Internal Revenue Service.

(c) An individual who is entitled to an automatic extension to file his or her income tax return with the Internal Revenue Service must file his or her annual statement of financial disclosure on or before [the] May 15 [th] containing all the information required by the annual statement except for [that] the information [only which] that is lacking due to such automatic extension to file the income tax return.

(d) Failure to file such supplementary statement or filing an incomplete or deficient supplementary filing shall be subject to the notice and penalty provisions of the Public Officers Law and the Executive Law as if such supplementary statement were an annual statement of financial disclosure.