TITLE 19 NYCRR PART 936
PROCEDURE FOR EXTENSION OF TIME FOR FILING A FINANCIAL DISCLOSURE STATEMENT DUE TO JUSTIFIABLE CAUSE OR UNDUE HARDSHIP OR AUTOMATIC EXTENSION OF TIME TO FILE

(Effective June 6, 2018)

Title 19 NYCRR Part 935 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. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

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 Commission on Ethics and Lobbying in Government.

(b) ***Covered Individual*** shall mean an individual who is required to file an annual statement of financial disclosure with the 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 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 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 policymaking 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 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 by sending a written request to the Commission via mail, email or facsimile in accordance with this Section.

(b) A person who is or becomes a Covered Individual on or before May 15 of any year shall file the extension request with the Commission on or before May 15 of the same year. If the Commission grants the extension, such Covered Individual shall file the Financial Disclosure Statement no later than June 30 of the same year.

(c) A person who becomes a Covered Individual after May 15 of any year shall file the extension request with the Commission within 30 days of becoming a Covered Individual. If the Commission grants the extension, such Covered Individual shall file the Financial Disclosure Statement within 45 days of the date that the statement is otherwise required.

(d) The extension request 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; and

(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 Commission to consider in granting or denying the request.

(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 Commission shall review the material filed to determine whether there has been a showing of justifiable cause or undue hardship.

(b) The Commission may request additional information from the Covered Individual who submitted the request. Such individual shall submit the additional information to the Commission within seven business days. In the event the Commission does not receive the additional information within 7 business days, the Commission may make a determination on the basis of the information it has available.

(c) The Commission shall notify the Covered Individual of its determination on the request for extension to file the Financial Disclosure Statement.

(1) If the Commission approves the extension request, the Covered Individual shall file the Financial Disclosure Statement within the applicable time period set forth in 936.4 (b) or (c) of this Section.

(2) If the Commission denies the extension request, such Financial Disclosure Statement shall be filed with the Commission within 15 days from receipt of such denial.

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 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 Financial Disclosure Statement 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 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 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 Financial Disclosure Statement on or before May 15 containing all the information required by the annual statement except for the information 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 Financial Disclosure Statement.