Title 19 NYCRR Part 939 is added 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

PART 939 PROCEDURE AND STANDARD OF REVIEW FOR SEEKING AND DETERMINING REQUESTS FOR AN EXTENSION OR WAIVER OF THE STATEWIDE ETHICS TRAINING MANDATE

939.1 Purpose and Effect of Regulations

The purpose of these regulations is to establish a procedure and standard of review for requests seeking, on the grounds of "good cause shown," an extension or waiver modifying the statewide Ethics Training Requirements set forth in Executive Law § 94(8)(a)-(b).

939.2 Definitions

(a) *Commission* refers to the Commission on Ethics and Lobbying in Government.

(b) *Ethics Training Program* means the Comprehensive Ethics Training Course or the Refresher Ethics Training Course referenced in Executive Law §§ 94(8)(a) and (b), respectively.

(c) *Ethics Training Requirements* means the mandate, set forth in Executive Law §§ 94(8)(a) and (b), that Statewide Elected Officials, members of the legislature and employees of the legislature, and state officers and employees as defined in Public Officers Law §§ 73, 73-a, and 74, and political party chairs as defined in Public Officers Law § 73, are required to complete the live in-person or live-online Comprehensive Ethics Training Course within ninety days of commencing state employment and every two years thereafter, and are required to complete the online Refresher Ethics Training Course in each intervening year.

(d) *Request* shall mean an application for an extension or waiver modifying the Ethics Training

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Requirements for one or more individuals.

(e) *State Agency* shall mean any State department, or division, board, commission, or bureau of any State department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State, as well as corporations closely affiliated with specific state agencies as defined by paragraph (d) of subdivision five of section fifty-three-a of the state finance law or their successor.

(f) *State Entity* shall mean the State Legislature.

(g) *Statewide Elected Official* shall mean the Governor, Lieutenant Governor, Attorney General, or Comptroller of the State of New York.

939.3 Procedure

1. An individual subject to the Ethics Training Requirements, a State Agency on behalf of some or all of its employees, or a State Entity on behalf of some or all of its members and employees, may seek an extension or waiver, modifying the Ethics Training Requirements for good cause shown, with a written application submitted to the Commission's Executive Director.
   (a) A request submitted by a State Agency on behalf of some or all of its employees shall be signed by the head of the agency.
   (b) A request submitted by a State Entity on behalf of some or all of its members and employees shall be signed by the executive director of the Legislative Ethics Commission.
   (c) A request shall be sent to the Commission via email at guidance@ethics.ny.gov, or by regular mail

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to 540 Broadway, Albany, NY 12207.

939.4 Standard of Review

1. Establishing good cause for an extension or waiver modifying the Ethics Training Requirements shall require a showing that complying with the Ethics Training Requirements without modification would impose extraordinary hardship upon the individual or the employing State Agency or State Entity.
2. When determining whether extraordinary hardship has been established, the Commission shall consider:
   (a) the specific duties of the affected individual(s);
   (b) the work schedules of the affected individual(s);
   (c) the affected individual(s)'s availability for and access to live in-person, live online and on-demand Ethics Training Program(s), including the availability to the affected individual(s) of any computer or other equipment need to participate in or take such training programs Ethics Training Program(s);
   (d) a proposed alternate arrangement or modification to the course or the modality used for its administration to comply with the Ethics Training Requirements; and
   (e) any other factor an applicant and the Commission may deem relevant.
3. The financial cost incurred by a State Agency or State Entity to deliver ethics training to its officers, members, and employees shall not constitute extraordinary hardship.
4. In no instance will a request for a full or indefinite extension or waiver of the Ethics Training Requirements be considered absent a showing that, even with modifications to the Ethics Training Requirements, complying with those requirements would impose extraordinary hardship upon the individual or the employing State Agency or State Entity.

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Notice of Adoption

19 NYCRR Part 939

Regulatory Impact Statement

1. Statutory Authority: Executive Law §94(8)(a) and (b) authorize the Commission on Ethics and Lobbying in Government ("Commission") to grant requests for a waiver or extension modifying the ethics training requirements set forth in those sections on the grounds of "good cause shown." Specifically, Executive Law §94(8)(a) and (b) provides the Commission on Ethics and Lobbying in Government ("Commission") with the responsibility to develop and administer a comprehensive and interactive line-in person or live-online ethics training course, and an online refresher course, respectively. Statewide Elected Officials, members of the legislature and employees of the legislature, and state officers and employees as defined in Public Officers Law §§ 73, 73-a, and 74, and political party chairs as defined in Public Officers Law § 73, are required to complete the live in-person or live-online Comprehensive Ethics Training Course within ninety days of commencing state employment and every two years thereafter, and are required to complete the online Refresher Ethics Training Course in each intervening year.

2. Legislative Objectives: The Ethics Commission Reform Act of 2022 ("ECRA") established the Commission on Ethics and Lobbying in Government as the agency responsible for administering, enforcing and interpreting New York State's ethics and lobbying laws, including administration of the statewide ethics training program.

3. Needs and Benefits: This Proposed Rule sets forth procedures and a standard of review for the submission and determination of requests for an extension or waiver modifying the statewide ethics training requirements.

4. Costs:

a. Costs to regulated parties for implementation and compliance: Minimal.

b. Costs to the agency, state and local governments for the implementation and continuation of the rule: There will be some cost to the agency, and there will be no cost to state and local governments.

c. Cost information is based on the fact that there will be minimal costs to regulated parties associated with seeking an extension or waiver modifying the statewide ethics training requirements, and the cost to the agency is based on the estimated increase in staff resources to implement the regulations.

5. **Local Government Mandates:** The Proposed Rule does not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.
6. **Paperwork:** This regulation requires the preparation and submission of a written request if one wishes to apply for an extension or waiver modifying the statewide ethics training requirements. This paperwork is expected to be minimal and is only required when someone is seeking an extension or waiver modifying the statewide ethics training requirements.
7. **Duplication:** This regulation does not duplicate any existing federal, state or local regulations.
8. **Alternatives:** There are no alternatives to adding the Commission's regulation.
9. **Federal Standards:** This regulation does not exceed any minimum standards of the federal government with regard to a similar subject area.
10. **Compliance schedule:** The Proposed Rulemaking will take effect immediately upon adoption.

Notice of Emergency Adoption and Proposed Rule Making

19 NYCRR Part 939 PROCEDURE AND STANDARD OF REVIEW FOR SEEKING AND DETERMINING REQUESTS FOR AN EXTENSION OR WAIVER OF THE STATEWIDE ETHICS TRAINING MANDATE

The Specific Reasons Underlying the Finding of Necessity for the Preservation of the General Welfare

This emergency rule is necessary for the general welfare to fully effectuate the provisions of Executive Law §§ 94(8)(a) and (b), which direct the Commission on Ethics and Lobbying in Government to "develop and administer" an ambitious statewide ethics training program. The statutes also permit the Commission to grant an application for an extension or waiver modifying the ethics training mandate "for good cause shown." The statute provides no procedure or standard of review for such applications.

The Commission has heard from many State agencies that, due to their particular circumstances, they have challenges with ensuring that their employees attend the required the ethics training, often due to issues related to access to technology or scheduling. The Commission believes that a significant number of employees, or agencies on behalf of some or all of their employees, will wish to seek an extension or waiver modifying the statewide ethics training requirements for them.

The statewide ethics training program is a continuing, yearly obligation, and it is essential that some form of ethics training be delivered to all those who are required to receive it. Delay in effectuating this Rule will result in some employees, or agencies, falling behind in their ethics training schedule.

This emergency rule is intended to be effective until the Notice of Proposed Rulemaking, which accompanies this Emergency Adoption, is permanently adopted. The simultaneous Notice of Proposed Rulemaking will afford the regulated community the timely opportunity to seek extensions or waivers modifying the ethics training requirement before falling behind in their ethics training obligation.

Notice of Adoption

Title 19 NYCRR Part 939

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Adoption because the proposed rulemaking will have limited, if any, impact on jobs or employment opportunities. This regulation implements current law and, therefore, imposes no new requirements. This regulation does not relate to job or employment opportunities.

Notice of Adoption

Title 19 NYCRR Part 939

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Adoption because the rulemaking will not impose any adverse economic impact on rural areas, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. This finding is based on the fact that the rule imposes no new requirements on such entities. Rural areas are not affected.

Notice of Adoption

Title 19 NYCRR Part 939

Regulatory Flexibility Analysis for Small Businesses and Local Governments

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Adoption because the rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. This finding is based on the fact that the rule implements current law and, therefore, imposes no new requirements on such entities.

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C E R T I F I C A T I O N

Final Adoption

19 NYCRR Part 937: Records Access Regulations

I, Leonard B. Austin, Chair of the New York State Commission on Ethics and Lobbying in Government ("Commission"), hereby certify that the attached Part 939 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York was duly adopted on April 23, 2025, pursuant to authority vested in the Commission by Executive Law section 94(5)(a), by the [ ] vote of the Commissioners present at a meeting held in Albany, New York, on April 23, 2025.

No other publication of prior notice was required by statute.

April 23, 2025

Leonard B. Austin, Chair

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(*Signature*)