



**New York State
Commission on Ethics and Lobbying in
Government**

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Chair

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Effective 8/18/25

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 criteria 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 requirements, 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, 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 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 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; 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, 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, and the offices of the Governor, Lieutenant Governor, Attorney General, and Comptroller.
- (f) *Undue hardship* shall mean significant difficulty, considering the practical realities of the particular State Agency, and refers to any ethics training that would be unduly disruptive, or that would fundamentally alter the nature or operation of the State Agency.

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 the legislature 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 the legislature 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 to 540 Broadway, Albany, NY 12207.

939.4 Criteria for Granting a Waiver or Extension

1. A request for an extension or waiver modifying the Ethics Training Requirements shall require a good faith showing that complying with the Ethics Training Requirements without modification would impose undue hardship upon the individual or the employing State Agency or the legislature.
2. When determining whether undue 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 needed to participate in or take such 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 the legislature to deliver ethics training to its officers, members, and employees shall not constitute undue hardship.
 4. In no instance will a request for a full or indefinite extension or waiver of the Ethics Training Requirements be considered.