



Title 19 NYCRR Part 937

Access to Publicly Available Records

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

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX JOINT COMMISSION OF PUBLIC ETHICS

PART 937

ACCESS TO PUBLICLY AVAILABLE RECORDS

§ 937.1 Scope and purpose

These regulations provide information concerning the procedures by which records of the Joint Commission on Public Ethics ("Commission") shall be available for public inspection and copying.

(a) Pursuant to Executive Law section 94(19)(a) the ~~only~~ following records of the Commission ~~which~~ shall be available for public inspection and copying ~~[are set forth below]~~:

~~(a)~~ (1) 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) of the Executive Law (Effective for filings due before ~~until~~ January 1, 2013);

~~(b)~~ (2) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except information deleted pursuant Section 94 (9)(h) of the Executive Law (Effective for filings due after January 1, 2013);

~~(c)~~ (3) Notices of Delinquency sent pursuant to section 94(12) of the Executive Law;

~~(d)~~ (4) Notices of Civil Assessments imposed pursuant to section 94(14) 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)~~ (5) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty or other remedy;

~~(f)~~ (6) Those records required to be held or maintained publicly available pursuant to article one-A of the Legislative Law; and

~~(g)~~ (7) Substantial basis investigation reports issued by the Commission pursuant to section 94 (14- a) and (14-b) of the Executive Law. With respect to reports concerning members of the Legislature or legislative employees or candidates for member of the Legislature, the Commission shall not publicly disclose or otherwise disseminate such reports except in conformance with the requirements of section 80(9)(b) of the Legislative Law.

(b) In addition to the records in paragraphs (1) and (2) of subdivision (a) the following

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information related to annual statements of financial disclosure shall be available pursuant to a request for information and/or access to records in accordance with this Part:

(1) With respect to a particular annual statement of financial disclosure:

(a) The date of submission.

(b) Whether deletions have been made to the filing pursuant to Executive Law §§ 94(9)(h).

(i) This will not include information that is routinely redacted from all annual statements of financial disclosure by the Commission as a matter of course such as addresses of primary residence, names of minor children, email addresses, and account numbers.

(c) If a particular filing is unavailable: the status of that filing (whether it is pending, overdue, or unavailable for some other reason such as an extension of time to file pursuant to Executive Law § 94(9)(c), an exemption from filing pursuant to Executive Law § 94(9)(k), or a pending application for deletion or exemption pursuant to Executive Law §§ 94(9)(h), (i) or (i-1)).

(2) With respect to a particular individual, whether such individual is required to file an annual statement of financial disclosure, including:

(a) Whether the individual has been designated a Policy Maker or meets the filing rate pursuant to Public Officers Law § 73-a.

(i) This shall include the date that the reporting individual's appointing authority amended the written instrument required under Public Officers Law § 73-a(1)(c)(2) to include the individual as a required filer.

(b) Whether such individual has sought or received an exemption from filing pursuant to Executive Law § 94(9)(k).

NB: responses to subparagraphs (a) and (b) of paragraph (2) may vary depending on the filing year in question.

(3) For a specific state agency (as defined by subsection 1(b) of Public Officers Law § 73-a), a list of individuals who are required to submit an annual statement of financial disclosure and whether each individual has been designated as a Policy Maker by their appointing authority.

(4) A list of job titles and employment classifications that have been exempted from the requirement to file an annual statement of financial disclosure pursuant to Executive Law § 94(9)(k).

(5) Subject to subdivision (a) of this section, whether a request for public inspection and

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copying has been made for a particular annual statement of financial disclosure pursuant to this part.

- (a) This information is available only to the reporting individual, and the record does not include the identity of the individual or entity that made the request for information or records.

(6) The application (including all associated materials) for exemption, deletion and extension pursuant to Executive Law §§ 94(9)(c), (h), (i), (i-1), and (k), and the Commission's regulations, shall be exempt from the provisions of this subdivision and not subject to disclosure.

(c) In addition to the records in subdivision (a) of this section the Commission shall make available, pursuant to a request for information and/or access to records in accordance with this Part, the name, title and salary of all Commission staff.

§ 937.2 Designation of records access officer.

- (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 and information sought, if necessary;
 - (2) upon locating the requested record:
 - (i) make the record 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.

§ 937.3 Requests for information and access to publicly available records

- (a) A request for information and/or access to records pursuant to this part shall be in writing [~~or~~] on a form [~~approved~~] provided by the Commission.
- (b) A request shall reasonably describe the information or record sought. To the extent possible, a requesting person should supply identifying details of the information or record, such as the name of the person, entity or title associated with the information or record sought and

dates or filing period.

- (c) A response to a request that reasonably describes the information or record sought shall be made within five business days of receipt of the request by:
- (1) granting access to the record;
 - (2) providing the information sought; ~~[or]~~
 - (3) [~~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

(4) [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.

§ 937.4 Location of records for inspection

- (a) Once granted, access to records will be arranged by the Records Access Officer, and the records will be made available in a convenient and appropriate manner.
- (b) Appointments for public inspection of records at the Commission's office shall be arranged on days that the Commission is regularly open for business and during the hours of 9 a.m.-4:30 p.m.

§ 937.5 Deletion and exemption 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 any other item of information that the Commission has determined to delete pursuant to section 94[(9)(4)] of the Executive Law, and for filings due prior to January 1, 2013, the categories of value and amount.
- (b) In accordance with the rules set forth in 19 NYCRR 941.17(b)(1), pending any application for deletion or exemption 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.

937.6 Records access appeals

- (a) The General Counsel, or Deputy General Counsel in the General Counsel's stead, shall act as the Records Access Appeals Officer.

- (b) Any person denied access in whole or in part to a record or records pursuant to subdivision (a) of section 937.1 of this part or information requested pursuant to subdivision (b) of section 937.1 may within thirty days appeal in writing such denial to the Records Access Appeals Officer who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record or information the reasons for further denial, or provide access to the information or record sought. This shall constitute the final determination of the Commission.