

#18 Assessment of Public Comment on the Notice of Proposed Rulemaking – Part 937

During the official public comment period, the New York State Joint Commission on Public Ethics (“Commission”) received two written comments from the same entities regarding the Commission’s proposed regulation, which amends the records access regulations provided in Part 937.

The commentors requested that the Commission follow standards set in the Freedom of Information Law (FOIL) for access to the Commission’s public records and that the Commission make public, on the Commission’s website, the financial disclosure statements of members of state boards and commissions, agency commissioners, and other senior officials or directors. The Commission notes that while Public Officers Law Section 73-a(2)(k) requires the Commission to post on its website the Financial Disclosure Statements of state elected officials, Executive Law section 94(18) explicitly states that the website shall include public records “other than financial disclosure statements filed by state officers or employees or legislative employees”. Accordingly, a legislative change would be required in order to effectuate the posting of the Financial Disclosure Statements of a wider range of state officials and employees.

Additionally, commentors expressed their support for the new provisions in Part 937 which will give public access to more information about financial disclosure statements. However, the commentors oppose the provisions which would allow only filers of the financial disclosure statements to have access to information regarding requests for such records, as the general public would be denied the same access. The commentors suggested instead that information regarding requests for such records should be publicly available consistent with FOIL. To address this concern, the Commission is submitting a Revised Rulemaking to allow, beginning January 1, 2022, anyone to request a Record Access Request Log, which will consist of any request for information and/or records in accordance with Part 937. The log will include the date of the request and the identity of the individual or entity that made the request and identify the record or records requested and provided.