

Thursday March 7, 2024 6:30 pm

1 Frank Ogawa Plaza, City Hall, 3<sup>rd</sup> Floor City Council Chambers  
Oakland, CA 94612

## AGENDA

Reminder: This meeting will take place in person. Members of the public can observe remotely via zoom but must attend in person in order to participate.

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Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Cannabis Regulatory Commission at (510) 238-6370.

**Members:**

Javier Armas	District 1	Hellen Harvey	District 7
Tracey Corder	District 2	Chaney Turner	At Large
Taib Alaoui	District 3	Yulie Padmore	Mayor
Tariq Ikharo	District 4	TiYanna Long	City Auditor
Vacant	District 5	Greg Minor	City Administrator
Vacant	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

**MEETING AGENDA**

- A. Roll Call and Determination of Quorum
- B. Approval of the Draft Minutes from the CRC Meeting on November 2, 2023 and January 4, 2024
- C. Reports for Discussion and Possible Action
1. Update on Federal Scheduling of Cannabis Under Controlled Substances Act
  2. Draft 2022 and 2023 Cannabis Regulatory Commission Annual Reports
  3. Draft Regulations re the Approval Process for Transferring Permits
  4. \$3 Million Cannabis Equity Grant from the Governor’s Office of Business and Economic Development (Go-Biz)
  5. Implementation Update on State Grants
- D. Review of the Pending List and Additions to Next Month’s Agenda
- *Building and Fire Baseline Permitting Timelines (since January 2022)*
  - *Planning Department Discussion re Zones Eligible for Cannabis Businesses (since October 2022)*
  - *Updated Information from Finance Department (since October 2023)*
  - *CRC Attendance Policy (since November 2023)*
  - *Contracting Hazardous Materials Inspections (since November 2023)*
  - *Enforcement of CUP beautification requirements (since January 2024)*
- E. Open Forum / Public Comment
- F. Announcements
1. Update on Cannabis Permitting Process
  2. Apply to serve on CRC here:  
<https://oakland.granicus.com/boards/w/8552f8c4c0e15460/boards/6697>
- G. Adjournment

Thursday November 2, 2023 6:30 pm

## MINUTES

1 Frank Ogawa Plaza, City Hall, 3<sup>rd</sup> Floor City Council Chambers  
Oakland, CA 94612

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**MEETING AGENDA**

A. Roll Call and Determination of Quorum

*Present: Armas, Ikharo, Boyce, Harvey, Turner, Padmore, Long, Minor*  
*Absent: Corder, Alaoui*

B. Approval of the Draft Minutes from the CRC Special Meeting on October 2023

*Chair Turner moved to approve the minutes as drafted. Member Armas seconded the motion and the motion passed with Member Minor abstaining.*

C. Reports for Discussion and Possible Action

1. Oakland Police Department Report on 2022 Citations and Arrests for Cannabis Offenses and Discussion Regarding Private Security Guards at Cannabis Businesses

*Officer John Romero presented the report on behalf of the Oakland Police Department (OPD). Officer Romero highlighted the significant drop in cannabis arrests in recent years. Member Minor noted the City's 2017 equity analysis provided 20 years of historical cannabis arrest data for more context.*

*Member Boyce asked how the City is addressing unpermitted cultivation activity and what the protocol is for addressing cannabis use at federally subsidized housing. Officer Romero noted in light of Measure Z the City addresses unpermitted cultivation administratively and federal properties in Oakland are addressed by the Oakland Housing Authority. Member Boyce then asked how OPD coordinates with private security guards at cannabis businesses. Officer Romero shared that OPD knows which businesses have private security guards, but the State of California regulates private security guards through the Bureau of Security and Investigative Services (BSIS). Member Boyce then advocated for increased training for City staff so that they can become familiar with environmental compliance requirements.*

*Vice-Chair Long asked whether there have been arrests made for burglaries of cannabis businesses. Officer Romero stated yes, but sometimes cannabis operators do not report burglaries, particularly if they are unpermitted operators.*

2. Developing a CRC Member Attendance Policy

*Chair Turner noted that the CRC has had quorum issues in 2023, which prevented the CRC from conducting business. Chair Turner encouraged CRC members to email in advance of the meeting. Chair Turner then made a motion to add an attendance policy to the pending list as staff works with the City Attorney's Office to*

*develop an attendance policy for the CRC. Member Boyce seconded the motion and it passed with Member Minor abstaining.*

### 3. Exit Interview Survey for Withdrawn Applications

*Member Minor provided background on the exit interview survey and how the updated survey reflects the CRC's last input.*

*Vice Chair Long made a motion to (1) request that staff gather information on how the City is informed of when operators withdraw their application and (2) add a question regarding whether the operator is relocating their business within Oakland. Chair Turner made a friendly amendment to add a question regarding what if any impact burglaries/robberies had on their business. Vice Chair Long accepted the friendly amendment. Chair Turner seconded the motion and it passed with Member Minor abstaining.*

### 4. Fires Related to Cannabis Cultivation Facilities and Status of Hazardous Materials Inspector in Fire Prevention Bureau

*Member Minor provided the report. Member Boyce made a motion to place the issue of the City contracting hazardous materials inspections on the pending list and to ask staff to determine what the cost of doing so would be. Chair Turner seconded the motion. Member Armas expresses reluctance over hiring a consultant versus City staff based in Oakland. Nevertheless, the motion passed with Member Minor abstaining.*

### 5. Implementation Update on State Grants

*Member Minor provided the update, which included that the City is no longer accepted new grant applications due to less Go-Biz funding being available. Chair Turner asked how many security grant applications the City received; Member Minor offered to provide an update at the December CRC meeting.*

*After noting cannabis businesses are still struggling with burglaries, Chair Turner then made a motion to place on the pending list that the City should have emergency funding available to operators. Member Padmore seconded the motion and the motion passes with Member Minor abstaining.*

#### D. Review of the Pending List and Additions to Next Month's Agenda

- *Building and Fire Baseline Permitting Timelines (since January 2022)*
- *Establishing Department of Cannabis (since September 2022)*
- *Planning Department Discussion re Zones Eligible for Cannabis Businesses (since October 2022)*
- *Draft 2022 Cannabis Regulatory Commission Annual Report (since October 2023)*
- *Updated information from Finance Department (since October 2023)*

*Member Boyce made a motion to review the City's community beautification requirements at the next CRC meeting. Chair Turner seconded the motion and it passed with Member Minor abstaining.*

*Chair Turner made a motion to agendaize creating a Department of Cannabis at next month's CRC meeting. Vice-Chair Long seconded the motion and it passed with Member Minor abstaining.*

#### E. Open Forum / Public Comment

*Public speakers spoke regarding the loan program and whether bios can be available for CRC members.*

F. Announcements

1. Update on Cannabis Permitting Process
2. Proposal to Authorize Converting Cannabis Equity Loans Into Grants, Allow the Transfer of Permits from Equity Applicants to General Applicants, and Lift the Limit on Cannabis Special Events for a One-Year Period is Scheduled for the City Council's November 14<sup>th</sup> Community Economic Development (CED) Committee Meeting
3. Apply to serve on CRC here:  
<https://oakland.granicus.com/boards/w/8552f8c4c0e15460/boards/6697>

*Chair Turner noted that Senate Bill (SB) 51 was signed into law by Governor Newsom, extending the provisional licensing sunset for equity retailers.*

G. Adjournment

# *Cannabis Regulatory Commission*

Regular Meeting

Thursday January 4, 2024 6:30 pm

## MINUTES

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## MEETING AGENDA

A. Roll Call and Determination of Quorum

*Present: Armas, Ikharo, Boyce, Turner, Padmore, Minor*

*Absent: Corder, Alaoui, Harvey, Long*

*The meeting began with a moment of silence for fallen OPD Officer Tuan Le.*

B. Approval of the Draft Minutes from the CRC Meeting on November 2, 2023

*Member Boyce shared that the minutes as drafted do not capture the full conversation with OPD. Member Boyce then made a motion for staff to review the OPD item from the November meeting and add more details to the draft minutes, particularly around the discussion about Measure Z. Chair Turner seconded the motion and it passed by consensus.*

*Chair Turner then made a motion to agendaize the topic of the City sending text messages to cannabis operators regarding public safety issues. Member Armas seconded the motion and it passed by consensus.*

C. Reports for Discussion and Possible Action

1. Draft 2022 and 2023 Cannabis Regulatory Commission Annual Reports

*Member Minor summarized the two draft reports and the process for presenting the CRC's annual reports to the City Council. Chair Turner then recommended that the annual reports include the number of burglaries of cannabis businesses and how much revenue was lost. Member Boyce noted that only the 2022 report includes an overview section.*

*Member Boyce then made a motion to combine the 2022 and 2023 CRC annual reports into one report with an overview section, data on the number of burglaries of cannabis businesses and the impacts of these crimes.*

*Member Ikharo asked how the City can measure the financial impact of cannabis burglaries. Member Minor shared that the City likely lacks comprehensive direct data, but has annual data from the Finance Department, some data from police reports, and the number of withdrawn cannabis permit applications.*

2. Establishing a Department of Cannabis

*Member Minor offered background on the current staffing for the City's cannabis programs. Chair Turner provided history of efforts to form a Department of Cannabis and how the City's financial position is different*



than a few years ago. Member Armas stated that it is important for the City to develop a department and reduce reliance on contractors. Member Boyce, Chair Turner and Member Padmore all expressed support for a department with resources to support equity businesses, proactively inspect and enforce regulations, and communicate with the public and the industry. Members also acknowledged the financial challenges of funding a department. A public speaker supported creating a department and sharing stories, not just data, with the City Council so that the City will take the industry more seriously.

Chair Turner made a motion for the City to form a Department of Cannabis and for the CRC to form a subcommittee to continue working on this issue. Member Armas seconded the motion and it passed by consensus.

### 3. Community Beautification Requirements

Member Boyce shared that the areas outside of large cultivation facilities are atrocious and the City needs to monitor their community beautification compliance. Member Armas offered that unpermitted operators are worse than permitted operators in terms of leaving debris in the public right of way. Chair Turner noted that many garbage issues in the City existed before cannabis operators started operating.

Member Boyce made a motion to request that Public Works and code enforcement staff present to the CRC on how they enforce beautification requirements related to Conditional Use Permits, particularly in industrial areas. Chair Turner seconded the motion and it passed by consensus.

### 4. Implementation Update on State Grants

Member Minor provided updates on various state grants in progress

#### D. Review of the Pending List and Additions to Next Month's Agenda

- Building and Fire Baseline Permitting Timelines (since January 2022)
- Planning Department Discussion re Zones Eligible for Cannabis Businesses (since October 2022)
- Draft 2022 Cannabis Regulatory Commission Annual Report (since October 2023)
- Updated Information from Finance Department (since October 2023)
- CRC Attendance Policy (since November 2023)
- Contracting Hazardous Materials Inspections (since November 2023)

#### E. Open Forum / Public Comment

Open Forum took place at the beginning of the meeting as members waited for a quorum. Public speakers included equity applicant asking about upcoming grant opportunities and thanking the CRC for listening to operators' concerns and forwarding policies to the City Council for approval, as well as non-cannabis business owners experiencing challenges obtaining insurance due to proximity to cannabis businesses, and announcements regarding upcoming cannabis courses at Merritt College.

#### F. Announcements

1. Update on Cannabis Permitting Process
2. Apply to serve on CRC here:

<https://oakland.granicus.com/boards/w/8552f8c4c0e15460/boards/6697>

Member Minor shared that the Emerald Cup is coming to Oakland's Henry J. Kaiser Convention Center in May.

*Member Boyce then announced that she is moving and will no longer be serving on the CRC. CRC members then expressed their appreciation for Member Boyce and her work on the CRC.*

G. Adjournment



## Cannabis Regulatory Commission

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**TO:** Cannabis Regulatory Commission

**FROM:** Greg Minor  
Deputy Director, Economic  
and Workforce  
Development Department

**SUBJECT:** March 2024 Agenda Items

**DATE:** March 1, 2024

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### ITEM C (1) Update on Federal Scheduling of Cannabis Under the Controlled Substances Act

Cannabis remains a Schedule One controlled substance under federal law, however, since the 2013 Department of Justice “Cole Memorandum”<sup>1</sup> and the 2015 Fahr-Rohrbacher federal budget amendment,<sup>2</sup> state compliant medical cannabis facilities have generally been shielded from federal prosecution. The Trump Administration threatened to interrupt this status quo by rescinding the Cole Memorandum. Nonetheless, Congress has consistently extended the Fahr-Rohrbacher amendment and the federal government has not prioritized cannabis prosecutions. Additionally, in October 2022 President Biden directed the Secretary of Health and Human services and the Attorney General to initiate the process to review how cannabis is scheduled under federal law.

The Drug Policy Alliance will provide an overview on the latest updates regarding the scheduling of cannabis under federal law.

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<sup>1</sup> The Cole Memorandum can be found here: <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

<sup>2</sup> The Fahr-Rohrbacher amendment states: “None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of... California...to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

### ITEM C (2) Draft 2022 and 2023 Cannabis Regulatory Commission Annual Reports

Measure Z, the 2004 ballot initiative that established the Cannabis Regulatory Commission (CRC), as well as the CRC's implementing ordinance, [Ordinance No. 12694 C.M.S.](#), require that the CRC present to the City Council annually on the implementation of Measure Z. Staff presented a draft 2022 CRC report to the CRC in early 2023; at that time the CRC passed a motion for a subcommittee to review the report. At the October 2023 CRC meeting Vice-Chair Long made a motion to bundle the CRC's 2022-2023 annual reports for presenting to the City Council in the spring of 2024. Member Boyce seconded the motion and it passed by consensus.

At the January 2024 CRC meeting staff presented draft annual CRC reports for 2022 and 2023 composed by staff based on minutes of CRC meetings. Member Boyce made a motion to combine the 2022 and 2023 CRC annual reports into one report with an overview section and include data on the number of burglaries of cannabis businesses and the impacts of these crimes. Accordingly, enclosed please find a draft combined 2022 and 2023 CRC annual report. Please note staff is still waiting for data from the Oakland Police Department on the number of burglaries cannabis businesses during this period and this data will not include burglaries of unpermitted cannabis businesses. Following the CRC's approval the CRC staff will coordinate the scheduling of the presentation of the 2022 and 2023 annual reports before City Council.

### ITEM C (3) Draft Regulations re the Approval Process for Transferring Permits

On December 5, 2023 the Oakland City Council adopted [Ordinance No. 13775 C.M.S.](#), which amended Oakland Municipal Code 5.80 and 5.81 to allow an equity applicant to transfer their local authorization status or permit to a general applicant one year after receipt of a cannabis permit or three years after submitting a cannabis permit application, whichever occurs first. Furthermore, [Ordinance No. 13775 C.M.S.](#) authorized the City Administrator to develop regulations to implement the transfer approval process.

Enclosed please find a draft 2024 Addendum to the City's Cannabis Operator Regulations with regulations on the approval process for the transferring of permits and/or local authorizations from equity to general applicants. Following review and feedback from the CRC staff will finalize and publish the final transfer regulations.

### ITEM C (4) \$3 Million Cannabis Equity Grant From the Governor's Office of Business and Economic Development (Go-Biz)

The City's establishment of the nation's first cannabis equity program led to the creation of California's Cannabis Equity Grants Program for Local Jurisdictions administered by the Governor's Office of Business and Economic Development (Go-Biz) that has made funding available on an annual basis for local jurisdictions with cannabis equity programs. In February of this year Go-Biz awarded the City \$3,000,000, the maximum amount per local jurisdiction this funding cycle, to support the City's Equity Program over the next year.

The Go-Biz grant offers an opportunity to address the number one challenge confronting equity applicants, access to capital. **Table i** offers a summary of the proposed uses of Go-Biz funds and the level of funding proposed for each use.

**Table i: Proposed Use of Go-Biz 5 Grant Funds**

<b>Proposed Use</b>	<b>Amount of Funds</b>
A. Grants to Operators for Start-Up and Ongoing Costs	\$2,851,952.50
B. Half of a Program Analyst III	\$148,047.50
<b>TOTAL</b>	<b>\$3,000,000</b>

Staff recommends that the City commit the largest tranche of funds - over \$2.8 million - to grants to operators for start-up and ongoing costs. Grants to equity operators provide access to capital, the fundamental barrier confronting equity applicants as they seek to gain entry and successfully operate in the state’s regulated cannabis marketplace. In a recent survey equity applicants identified lack of capital as the principal barrier to establishing a compliant cannabis business. Grants address this barrier and provide operators with flexibility to cover the variety of expenses they encounter initiating and growing their business, from completing construction, to purchasing insurance, to covering state licensing fees. Notably, over seventy-five percent of recently surveyed equity businesses stated that the funding they received from the City allowed them to stay in business and another fifteen percent stated that this funding allowed their businesses to grow. In short, the capital support provided from Go-Biz is critical to equity businesses’ survival and growth. Staff also recommends distributing just grants and not loans this cycle as it streamlines the program and simplifies the administrative resources needed to distribute Go-Biz funds, which is key with City staff stepping into the role of directly disbursing Go-Biz funds.

In addition to accepting and appropriating the latest Go-Biz grant, staff recommends re-allocating unspent administrative funds from the prior Go-Biz grant to increase the contract with 4Front Partners (4Front) by \$45,000. This re-structuring will provide 4Front with the necessary funding to finish distributing grants and loans to equity applicants funded from the prior Go-Biz grant and ensure a smooth transition of information as staff prepares to internally administer the next round of grants to equity applicants. Accordingly, staff recommends repurposing \$45,000 from City staff costs towards 4Front as outlined in **Table ii** below.

**Table ii: Original and Proposed Use of Go-Biz 4 Grant Funds**

<b>Proposed Use</b>	<b>Original Use of Funds</b>	<b>Proposed New Use of Funds</b>
A. Grants/Loans to Operators for Start-Up and Ongoing Costs	\$1,796,838.75	\$1,796,838.75
B. Half of a City Administrator Analyst	\$120,669.00	\$75,669.00
C. Consultant Administering of Grant/Loan Programs	\$78,979.75	\$123,979.75
<b>TOTAL</b>	<b>\$1,996,487.50</b>	<b>\$1,996,487.50</b>

ITEM C (5) Implementation Update on State Grants

Oakland’s pioneering race and equity analysis of the cannabis industry and creation of an Equity Program inspired jurisdictions across the country to pursue and support similar programs. Then starting in 2019 the State of California set aside annual grant funding to support local jurisdictions’ cannabis equity programs. **Table A** outlines the amount of funding the City has received from the State of California for its Equity Program, Oakland’s ranking among local jurisdictions each year, and the total amount of funding set aside by the State of California that year.

**Table A: Oakland’s Receipt of Local Equity Grant Funding**

<b>State Funding Agency</b>	<b>Fiscal Year (FY)</b>	<b>Amount of Funding Received</b>	<b>Oakland's Ranking Among Local Jurisdictions</b>	<b>Total Amount of Funding Available Statewide</b>
BCC <sup>3</sup>	FY 2019-2020	\$1,657,201.65	2nd	\$10 million
Go-Biz	FY 2019-2020	\$6,576,705.76	1st	\$30 million
Go-Biz	FY 2020-2021	\$2,434,712.51	1st	\$15 million
Go-Biz	FY 2021-2022	\$5,435,140.82	2nd	\$35 million
Go-Biz	FY 2022-2023	\$1,996,487.50	1st	\$15 million
Go-Biz	FY 2023-2024	\$3,000,000	1 <sup>st</sup> -tied	\$15 million

In addition to Go-Biz Grants, in 2022 the City of Oakland received a three-year \$9,905,020 Local Jurisdiction Assistance Grant (LJAG) from the Department of Cannabis Control (DCC) to support the transition of cannabis operators from a provisional to an annual state license. As noted at prior CRC meetings, due to delays in hiring building and fire department staff, staff has sought DCC approval to re-purposed unspent funding as grants to operators to bring their buildings into compliance with building, fire and health codes. Additionally, staff has formed small teams of inspectors on overtime to inspect and review the compliance status of provisionally licensed cannabis operators.

Finally, in 2021 the City received a three-year grant from the Board of State and Community Corrections (BSCC) to address the impacts of cannabis legalization and in 2023 the City received a five-year \$3 million [Proposition 64 Health and Safety Cohort 3 Grant](#), which will consist of (i) security measures for Oakland’s licensed cannabis operators and (ii) a public education campaign to support Oakland equity operators. For more information, please [visit here](#). **Figures 1-3** provide status updates on these various state grants.

<sup>3</sup> Initially the Bureau of Cannabis Control, the predecessor to the Department of Cannabis Control, disbursed Local Equity Grant funding.

**Figure 1- Local Jurisdiction Assistance Grant (2022-2025)**

<b>USES</b>	<b>COST IN ONE YEAR</b>	<b>COST OVER THREE YEARS</b>	<b>DISBURSED</b>	<b>BALANCE</b>
Grants to Provisionally Licensed Equity Applicants	\$547,218.50	\$1,722,655.50	1,475,000.00	\$247,655.50
Special Activity Permit Technician	\$166,810.00	\$500,430.00	9,572.45	\$490,857.55
Planning CEQA Review	\$9,237.00	\$27,710.00	0.00	\$27,710.00
Program Analyst for Processing Grants	\$198,640.00	\$595,920.00	162,488.07	\$433,431.93
Process Coordinator II in Building Bureau	\$175,696.00	\$527,088.00	0.00	\$527,088.00
Overtime for Civil Engineers to Review Plans	\$591,075.00	\$1,773,224.00	17,184.53	\$1,756,039.47
Overtime for Code Enforcement	\$78,115.80	\$234,347.00	32,323.55	\$202,023.45
Hazardous Materials Inspector II	\$193,545.00	\$580,638.00	0.00	\$580,638.00
Overtime for Fire Plan Engineers to Review Plans	\$73,760.00	\$221,280.00	0.00	\$221,280.00
Overtime for Fire Code Enforcement	\$61,824.00	\$185,472.00	8,824.66	\$176,647.34
Overtime for Municipal Code Enforcement Officers for Security Inspections	\$50,000.00	\$150,000.00	45,828.62	\$104,171.38
Annual CPTED Training for Municipal Code Enforcement Officers	\$1,200.00	\$3,600.00	921.00	\$2,679.00
Establishing/Maintaining Accela Module for Cannabis Permit Tracking	\$310,000.00	\$430,000.00	0.00	\$430,000.00
Grants to Meet Security Requirements	\$574,218.50	\$1,722,655.50	1,457,737.39	\$264,918.11
Consultant (4Front Partners) to Administer Loan/Grant Programs	\$160,000.00	\$480,000.00	475,774.88	\$4,225.12
Consultant (Knox & Ross) to Provide Legal Assistance to Equity Applicants	\$125,000.00	\$375,000.00	199,250.00	\$175,750.00
Consultant (Oaksterdam) to Provide Technical Assistance to Equity Applicants	\$125,000.00	\$375,000.00	234,415.00	\$140,585.00
<b>TOTALS</b>	<b>\$3,441,339.80</b>	<b>\$9,905,020.00</b>	<b>\$4,119,320.15</b>	<b>\$5,785,699.85</b>

**Figure 2- Original and Current Uses of Proposition 64 Cohort Two Grant (2021-2024)**

	<b>BUDGETED</b>	<b>DISBURSED</b>	<b>BALANCE</b>
<b>CONSULTANTS</b>			
<i>Preventative and Intervention Activities for Youth (\$280,000)</i>			
<i>Develop and Support Youth Awareness Campaign (\$163,306)</i>			
Public Health Institute (PHI)	443,306.00	171,000.00	272,306.00
<b>Public Outreach Campaign to Adults</b>			
Make Green Go (MGG)	75,000.00	75,000.00	-
<b>Evaluator</b>			
LMB CREATIVE (LMB)	80,000.00	40,000.00	40,000.00
<b>SALARIES</b>			
Officer John Romero	112,329.00	39,529.52	72,799.48
Petural Shelton (PJ)	231,000.00	153,568.62	77,431.38
<b>MISC.</b>			
Indirect Costs and Overhead	27,000.00		27,000.00
Meeting Supplies and Notifications	29,059.00	2,474.20	26,584.80
	997,694.00	481,572.34	516,121.66



**Figure 3- Proposition 64 Cohort Three Grant (2023-2028)**

<b>USES</b>	<b>YEAR 1 FY 23-24</b>	<b>DISBURSED</b>	<b>BALANCE</b>	<b>YEAR 2 FY 24-25</b>	<b>YEAR 3 FY 25-26</b>	<b>YEAR 4 FY 26-27</b>	<b>YEAR 5 FY 27-28</b>	<b>TOTAL</b>
Half of Program Analyst III	0	0	0	\$100,000	\$105,000	\$110,000	\$115,000	\$430,000
Equity Public Awareness Consultant	\$45,000	0	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$225,000
3rd Party Evaluator	0	0	0	\$20,000	\$20,000	\$20,000	\$20,000	\$80,000
Grants to Secure Facilities	0	0	0	0	\$200,000	\$200,000	\$200,000	\$600,000
Grants to Support Onsite Security	\$332,000	\$69,166.65	\$262,833.35	\$332,000	\$332,000	\$332,000	\$332,000	\$1,660,000
RFP Advertising	\$5,000	0	\$5,000					\$5,000
<b>TOTAL</b>	\$382,000	\$69,166.65	\$312,833.35	\$497,000	\$702,000	\$707,000	\$712,000	<b>\$3,000,000</b>

**Figure 4: 2023-2024 Go-Biz (GO-Biz 4) Grant Funds**

<b>CATEGORY</b>	<b>TOTAL FUNDED</b>	<b>DISBURSED</b>	<b>BALANCE</b>
Grants/Loans to Operators for Start Up and Ongoing Costs	\$1,796,838.76	\$ 1,486,046.90	\$310,791.86
Consultant (Loan & Grants)	\$78,979.75	\$ 78,968.75	\$11.00
Staffing (Half of City Administrator Analyst)	\$120,669.00	38,574.46	\$ 82,094.54

ITEM F (1) Update on Cannabis Permitting Process

Below please find cannabis permitting statistics from 2017 to present day for the CRC's review, including additional categories as well as application and permit trend graphs.

**Figure F-1: Application Totals**

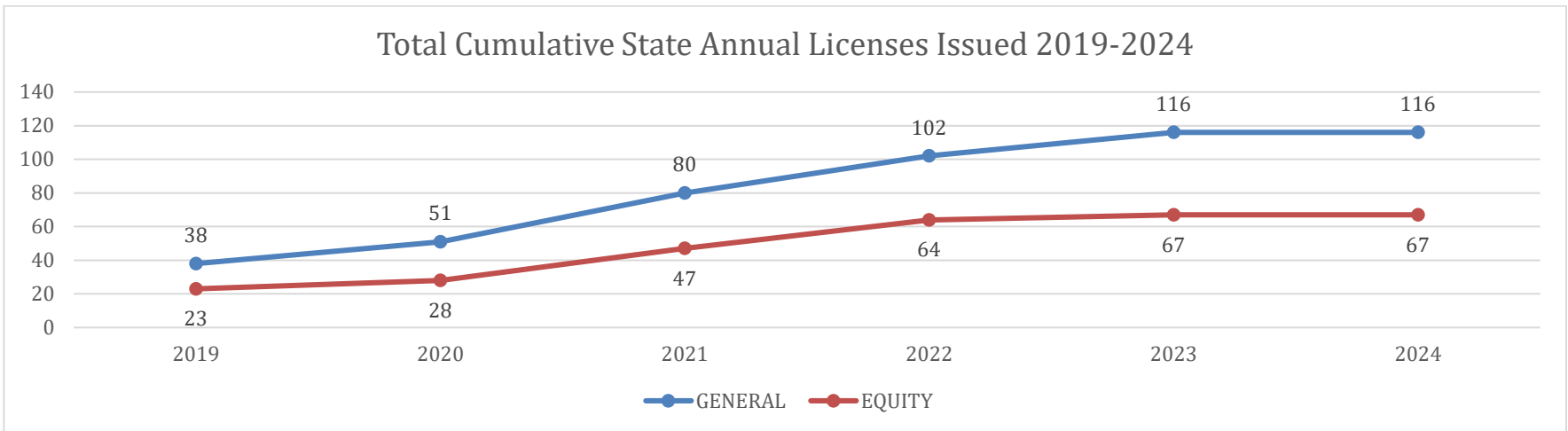
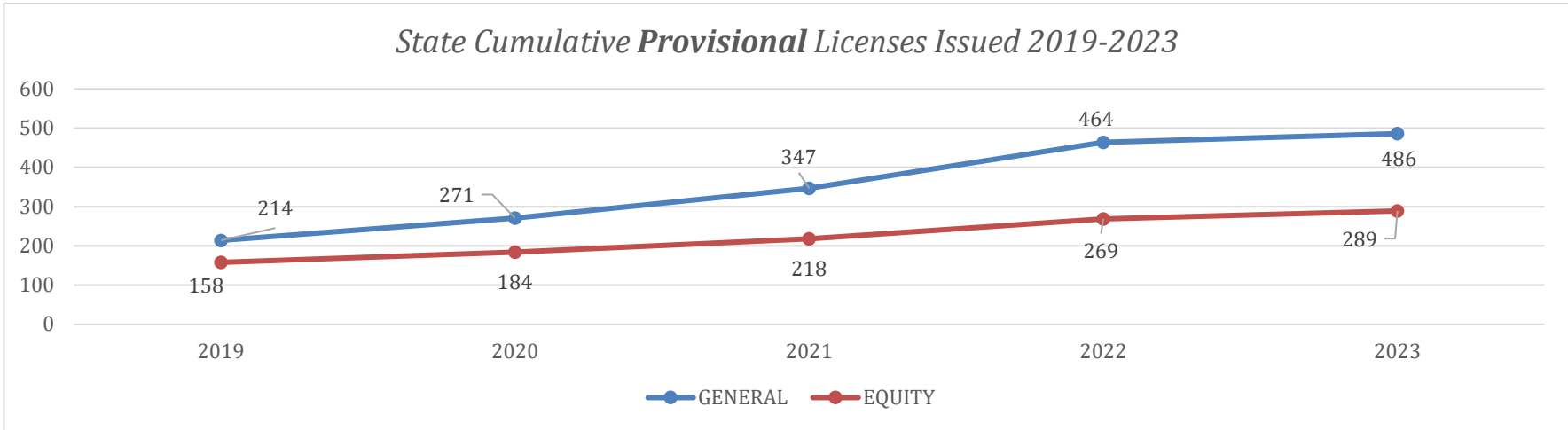
<b>APPLICATIONS</b>	<b>TOTALS</b>	<b>PENDING</b>
Total Complete & Incomplete Applications	1537	141
Total Complete Applications	1537	
Complete General Applications	640	
Equity Applications based on residency	779	
Equity Applications based on conviction	118	
Incubators	300	
Interested in Incubating	23	
Complete Application with property	994	
Complete Application without property (Equity)	439	
Complete Applicants without property (General)	104	

**Figure F-2: Permit Applications by Category**

<b>COMPLETED APPLICATIONS BY BUSINESS TYPE</b>	<b>GENERAL</b>	<b>INCUBATOR*</b>	<b>INTERESTED IN INCUBATING*</b>	<b>EQUITY</b>
Delivery	148	51	4	231
Cultivator (Indoor)	213	103	13	147
Cultivator (Outdoor)	5	3	0	36
Distributor	134	76	4	220
Mfg. Volatile	48	36	0	46
Mfg. Non-Volatile	86	43	2	171
Transporter	5	3	0	36
Lab Testing	1	1	0	10
<b>GRAND TOTALS</b>	<b>640</b>	<b>316</b>	<b>23</b>	<b>897</b>

\*These numbers are part of the General Total

**Figure F-3: Operators Issued Provisional and Annual Licenses**



**Figure F-4: New Permits Issued to Cannabis Operators Since Spring of 2017 by Category<sup>4</sup>**

<b>NEW ANNUAL PERMITS BY BUSINESS TYPE</b>	General	Incubator	Equity	Total
On-site Consumption	3		3	6
Dispensary	8	1	9	18
Delivery	69	18	88	169
Cultivator (Indoor)	6	6	19	31
Cultivator (Outdoor)	0	0	2	2
Distributor	26	27	59	112
Mfg. Volatile	3	5	1	9
Mfg. Non-Volatile	9	11	42	62
Transporter	2	0	5	6
Lab Testing	0	0	0	0
<b>GRAND TOTALS</b>	<b>126</b>	<b>68</b>	<b>228</b>	<b>421</b>

<sup>4</sup> Figure F-4 includes dispensaries that were permitted before 2017 and have renewed their permits since 2017

**Figure F-5: Withdrawn Applications**

<b>WITHDRAWN APPLICATIONS</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	32	40	89	161
Cultivator (Indoor)	23	24	63	110
Cultivator (Outdoor)	14	13	13	40
Distributor	13	61	74	148
Mfg. Volatile	5	20	23	48
Mfg. Non-Volatile	14	31	58	103
Transporter	6	1	16	23
Lab Testing		3	3	6
<b>TOTALS</b>	<b>107</b>	<b>193</b>	<b>339</b>	<b>639</b>

**Figure F-6: Revoked Local Authorization**

<b>REVOKED LOCAL AUTHORIZATION</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	1	6	6	13
Cultivator (Indoor)	5	20	6	31
Cultivator (Outdoor)				0
Distributor	1	5	4	10
Mfg. Volatile		3		3
Mfg. Non-Volatile		3	1	4
Transporter		1		1
Lab Testing				0
<b>TOTALS</b>	<b>7</b>	<b>38</b>	<b>17</b>	<b>62</b>

**Figure F-7: Graph of Cannabis Permit Applications Received Since 2017**

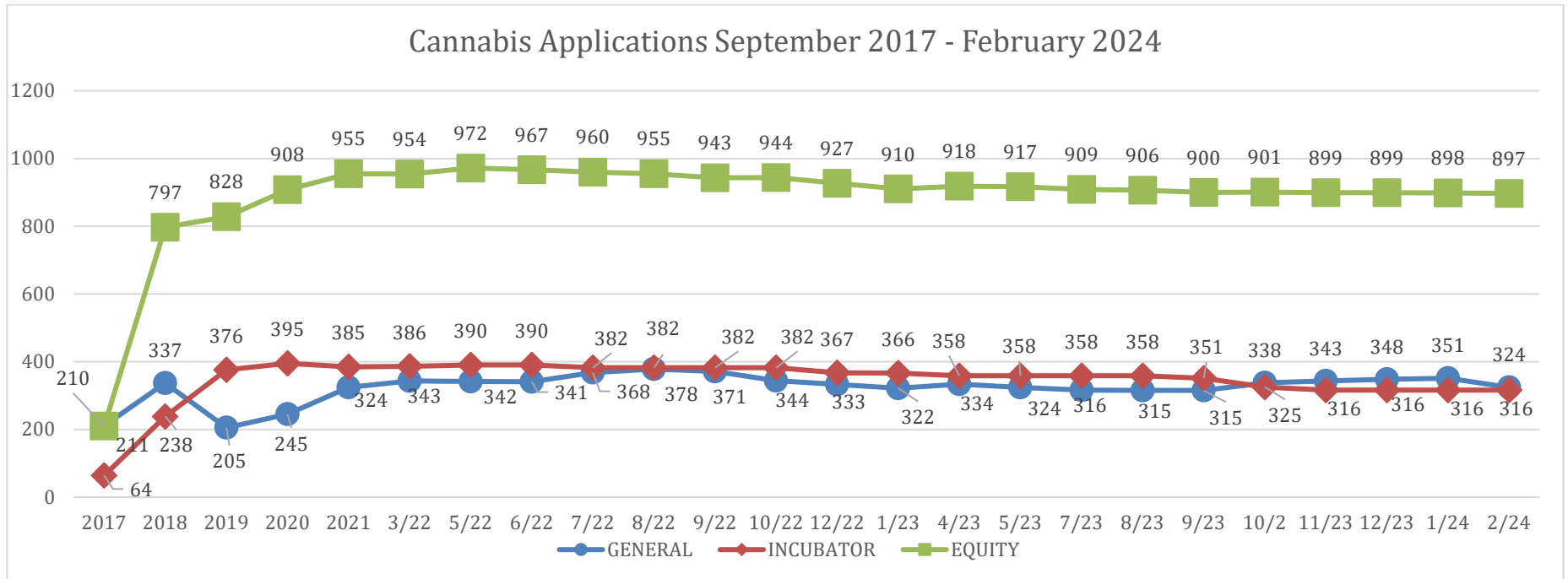
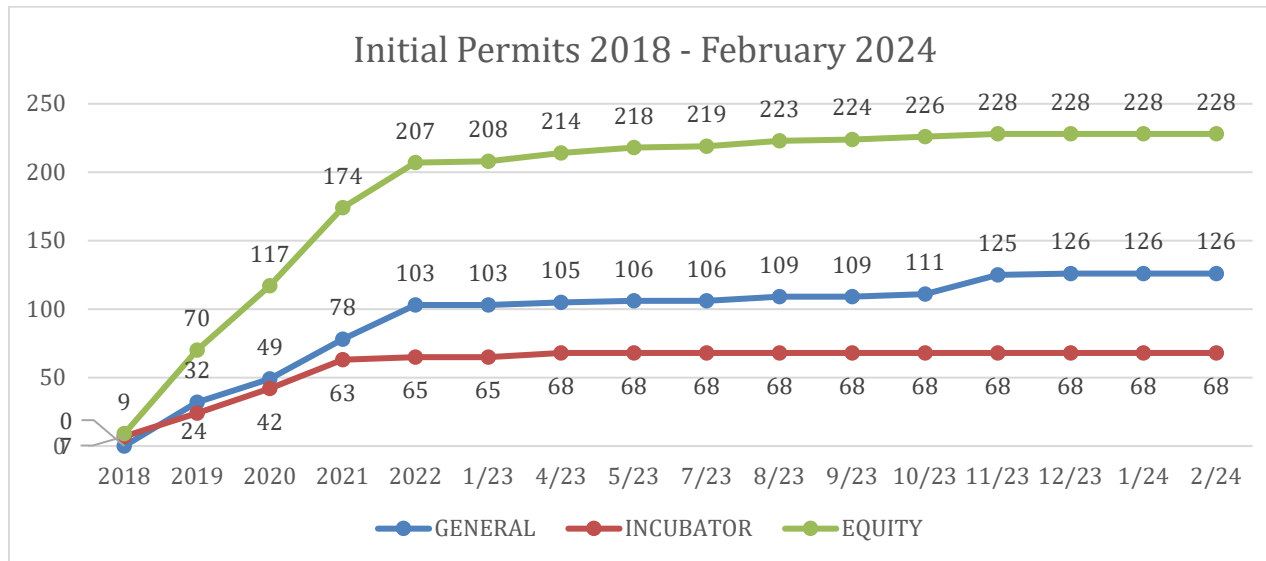


Figure F-8: Graph of Cannabis Permits Issued since 2018





**DRUG  
POLICY  
ALLIANCE.**

# **Federal Marijuana Scheduling**

**Presentation for**

**Oakland Cannabis Regulatory Commission**

**by Cat Packer**

**Director of Drug Markets & Legal Regulation  
Drug Policy Alliance**



**Both Congress and the DEA have the authority to change the status of marijuana under the Controlled Substances Act (CSA).**

**Congress can change the status of a controlled substance through legislation, while the CSA empowers DEA to make scheduling decisions through the administrative review process.**



**2020**



**2022**

# Timeline

- **October 6, 2022**
  - **President Biden issued statement on marijuana reform issuing pardons for simple possession, encouraged similar state reforms and called for an administrative review of how marijuana is scheduled under federal law**
- **August 29, 2023**
  - **HHS recommended marijuana be moved to Schedule III**
- **December 19, 2023**
  - **DEA shares letter stating that it has **final authority** on the scheduling decision and that was “now conducting its own review.”**
- **January 12, 2024**
  - **In response to a FOIA request, HHS released its recommendation to move marijuana to Schedule III and related analysis.**

# Marijuana Scheduling Review

- **Controlled Substances Act**
  - **Administrative Review Process**
    - **CSA Scheduling Criteria**
- **Department of Health and Human Services (HHS)**
  - **8 Factors for Scientific & Medical Evaluation**
  - **3 Findings Required for Scheduling Recommendation**
  - **Recommendation**
- **Drug Enforcement Administration (DEA)**
  - **Next Steps**
- **Legal Consequences and Limitations**

# Controlled Substances Act

- **Substances become subject to the CSA through placement in one of five lists, known as Schedules I through V.**
- **CSA requires those who handle controlled substances to register with DEA -- imposes criminal penalties for unauthorized activity.**
- **Establishes process by which substances can be scheduled, rescheduled, or descheduled.**
- **Marijuana has been a Schedule I substance on the CSA since the act was first implemented in 1971.**

# Administrative Review Process

## HHS

- **Analysis**
- **Recommendation**





## DEA

- **Analysis**
- **Determination**

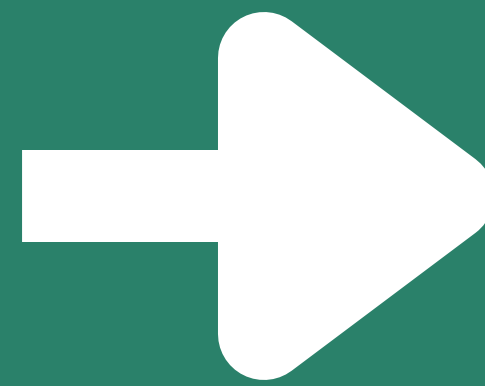


# CSA Scheduling Criteria



	 ABUSE POTENTIAL	 MEDICAL USE	 SAFETY/DEPENDENCE	 EXAMPLES
SCHEDULE I	High	⊗ Not currently accepted	Lack of accepted safety for use of the substance under medical supervision <sup>1</sup>	Marijuana, <sup>2</sup> heroin, lysergic acid diethylamide (LSD), 3,4 methylenedioxymethamphetamine (MDMA), peyote <sup>3</sup>
SCHEDULE II	High	✓ Currently accepted	Abuse may lead to severe psychological or physical dependence <sup>4</sup>	Cocaine, methamphetamine, oxycodone, fentanyl, <sup>5</sup> Adderall <sup>6</sup>
SCHEDULE III	Less than the substances in Schedules I and II	✓ Currently accepted	Abuse may lead to moderate or low physical dependence or high psychological dependence <sup>7</sup>	Ketamine, anabolic steroids, testosterone, Tylenol with codeine <sup>8</sup>
SCHEDULE IV	Low potential for abuse relative to the substances in Schedule III	✓ Currently accepted	Abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III <sup>9</sup>	Xanax, Valium, Ambien <sup>10</sup>
SCHEDULE V	Low potential for abuse relative to the substances in Schedule IV	✓ Currently accepted	Abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule IV <sup>11</sup>	Cough medicines with codeine, certain antidiarrheal medicines, FDA-approved drugs containing the marijuana extract cannabidiol (CBD) <sup>12</sup>

# 8 Factors for Scientific and Medical Evaluation



# 3 Required Findings

1 Its actual or relative potential for abuse

2 Scientific evidence of its pharmacological effect, if known

3 The state of current scientific knowledge regarding the drug or other substance;

4 Its history and current pattern of abuse;

5 The scope, duration, and significance of abuse

6 What, if any, risk there is to the public health;

7 Its psychic or physiological dependence liability; and

8 Whether the substance is an immediate precursor of a substance already controlled.

1 its relative abuse potential compared to other drugs,

2 whether it has a currently accepted medical use (CAMU) in treatment in the United States (or a currently accepted medical use with severe restrictions (21 U.S.C. 812(b)(2)(B)),

3 its relative safety or ability to produce physical dependence compared to other drugs, as provided under 21 U.S.C. 812(b).

# HHS Findings


**Marijuana meets the three criteria for placing a substance in Schedule III of the CSA, as set forth under 21 U.S.C. 812(b)(3):**

- 1. Marijuana has a potential for abuse less than the drugs or other substances in Schedules I and II.**
- 2. Marijuana has a currently accepted medical use in treatment in the United States.**
- 3. Abuse of marijuana may lead to moderate or low physical dependence or high psychological dependence.**

# HHS Findings

## 3 Required Findings

1	<b>its relative abuse potential compared to other drugs,</b>	<b>ABUSE</b>
2	<b>whether it has a currently accepted medical use (CAMU) in treatment in the United States (or a currently accepted medical use with severe restrictions (21 U.S.C. 812(b)(2)(B)),</b>	<b>CURRENTLY ACCEPTED MEDICAL USE</b>
3	<b>its relative safety or ability to produce physical dependence compared to other drugs, as provided under 21 U.S.C. 812(b).</b>	<b>SAFETY &amp; DEPENDENCE</b>



# Currently Accepted Medical Use (CAMU)

- Such an evaluation is **one of the findings** relevant to the placement of a substance in one of five drug control “schedules” set forth in 21 U.S.C. § 812(b).
- the two-part test is to determine whether a substance, in this case marijuana, has a CAMU for purposes of drug scheduling recommendations and placement in a drug schedule consistent with criteria set forth in 21 U.S.C. 812(b).
- this test takes into account the current widespread medical use of marijuana under the supervision of licensed health care practitioners (HCPs) under state-authorized programs.

**1. whether there is widespread current experience with medical use of marijuana in the United States by licensed HCPs operating in accordance with implemented state-authorized programs, where such medical use is recognized by entities that regulate the practice of medicine under these state jurisdictions**

**2. whether there exists some credible scientific support for at least one of the medical conditions for which the Part 1 test is satisfied**

**FDA’s evaluation in Part 2 is not meant to be, nor is it, a determination of safety and efficacy under the Federal Food, Drug, and Cosmetic Act’s (FD&C Act’s) drug approval standard for new human or animal drugs.**

# CAMU

**Part 1: whether there is widespread current experience with medical use of marijuana in the United States by licensed HCPs operating in accordance with implemented state-authorized programs, where such medical use is recognized by entities that regulate the practice of medicine under these state jurisdictions**

**OASH found that more than 30,000 HCPs are authorized to recommend the use of marijuana for more than six million registered patients, constituting widespread clinical experience associated with various medical conditions recognized by a substantial number of jurisdictions across the United States.**

**Confirmed that more than 30,000 HCPs across 43 U.S. jurisdictions are authorized to recommend the medical use of marijuana for more than six million registered patients for at least 15 medical conditions.**



# CAMU

**Part 2: whether there exists some credible scientific support for **at least one** of the medical conditions for which the Part 1 test is satisfied**

**FDA's evaluation in Part 2 is not meant to be, nor is it, a determination of safety and efficacy under the Federal Food, Drug, and Cosmetic Act's (FD&C Act's) drug approval standard for new human or animal drugs.**

**FDA conducted Part 2 of the CAMU test for seven indications [anorexia,<sup>10</sup> anxiety,<sup>11</sup> epilepsy, inflammatory bowel disease (IBD), nausea and vomiting, pain, and post-traumatic stress disorder (PTSD).]**

**Based on the totality of the available data, we conclude that there exists some credible scientific support for the medical use of marijuana in at least one of the indications for which there is widespread current experience in the United States**

**we find that that, for purposes of the drug scheduling criteria in 21 U.S.C. 812(b), marijuana has a CAMU in the United States for: **anorexia related to a medical condition; nausea and vomiting (e.g., chemotherapy-induced); and pain.****

# **A few other notes on HHS' analysis...**

- **2015 HHS Analysis & CAMU**
- **History of Federal Marijuana Criminalization**
- **Alcohol**



# 2015 HHS Analysis

## CAMU = 5 Part TEST

### **1. the drug's chemistry must be known and reproducible**

a. "The substance's chemistry must be scientifically established to permit it to be reproduced into dosages which can be standardized. The listing of the substance in a current edition of one of the official compendia, as defined by section 201 (j) of the Food, Drug and Cosmetic Act, 21 U.S.C. 321 (j), is sufficient to meet this requirement."

### **2. there must be adequate safety studies**

a. "There must be adequate pharmacological and toxicological studies, done by all methods reasonably applicable, on the basis of which it could fairly and responsibly be concluded, by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drngs, that the substance is safe for treating a specific, recognized disorder.

### **3. there must be adequate and well-controlled studies proving efficacy**

a. "There must be adequate, well-controlled, well-designed, well-conducted, and well-documented studies, including clinical investigations, by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drngs, on the basis of which it could be fairly and responsibly concluded by such experts that the substance will have the intended effect in treating a specific, recognized disorder."

### **4. the drug must be accepted by qualified experts**

a. "The drug has a New Drug Application (NDA) approved by the Food and Drug Administration, pursuant to the Food, Drug and Cosmetic Act, 21 U.S.C. 355. Or, a consensus of the national community of experts, qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, accepts the safety and effectiveness of the substance for use in treating a specific, recognized disorder. A material conflict of opinion among experts precludes a finding of consensus." and

### **5. the scientific evidence must be widely available.**

a. "In the absence of NDA approval, information concerning the chemistry, pharmacology, toxicology, and effectiveness of the substance must be reported, published, or otherwise widely available, in sufficient detail to permit experts, qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, to fairly and responsibly conclude the substance is safe and effective for use in treating a specific, recognized disorder."

**Marijuana does not meet any of the five elements necessary for a drug to have a "currently accepted medical use."**

# 8 Factors for Scientific and Medical Evaluation

1 Its actual or relative potential for abuse

2 Scientific evidence of its pharmacological effect, if known

3 The state of current scientific knowledge regarding the drug or other substance;

4 Its history and current pattern of abuse;

5 The scope, duration, and significance of abuse

6 What, if any, risk there is to the public health;

7 Its psychic or physiological dependence liability; and

8 Whether the substance is an immediate precursor of a substance already controlled.



## 3 Required Findings

1 its relative abuse potential compared to other drugs,

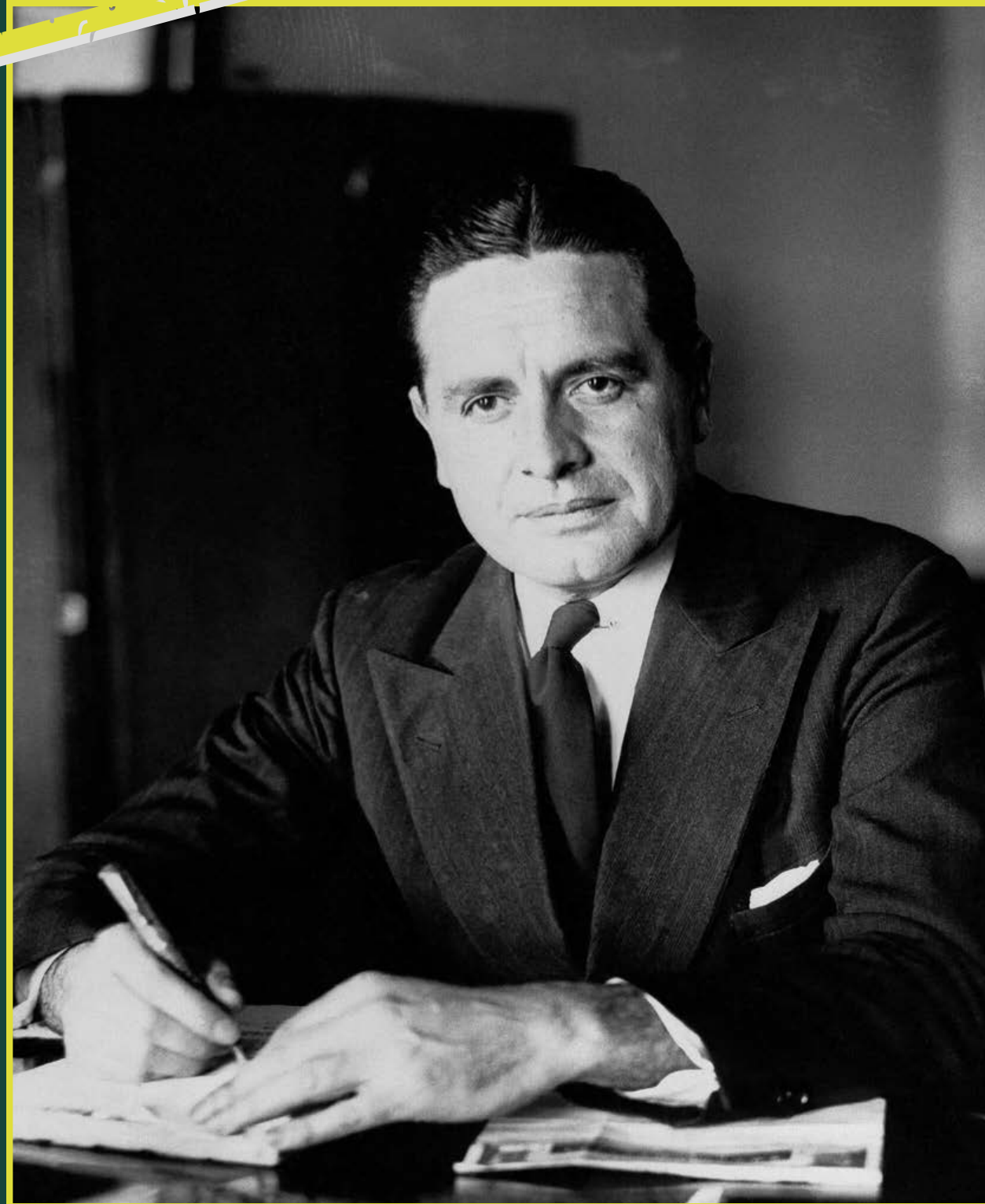
2 whether it has a currently accepted medical use (CAMU) in treatment in the United States (or a currently accepted medical use with severe restrictions (21 U.S.C. 812(b)(2)(B)),

3 its relative safety or ability to produce physical dependence compared to other drugs, as provided under 21 U.S.C. 812(b).

# HHS Analysis

- **Factor 4. Its history and current pattern of abuse.**
  - **references Harry Anslinger, Federal Bureau of Narcotics and Marijuana Tax Act**
  - **references history of CSA**

**MISSING**



**“Reefer makes darkies  
think they’re as good as  
white men.”**

**Harry J. Anslinger**

**Commissioner of the  
Federal Bureau of Narcotics  
(Predecessor to the  
Drug Enforcement Administration)**

**MISSING**



**“You want to know what this [war on drugs] was really all about? The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”**

**Admitted By John Ehrlichman  
Assistant to the President for Domestic Affairs under President Richard Nixon**

**President Richard  
Nixon**

# History of the Controlled Substances Act

- **Signed By President Nixon**
- **Placement on Schedule I originally intended to be temporary until report from National Commission on Marihuana and Drug Abuse.**
- **This commission recommended that marijuana be decriminalized.**



# Alcohol

## Comparison of Alcohol and Marijuana

- **Scientific and Medical Evidence included in HHS Analysis analysis illustrated that compared to marijuana, alcohol (not scheduled) has:**
  - **Higher Rates of Adverse Outcomes**
  - **Higher Abuse Liability**
  - **Higher Rates of Substance Use Disorder**
  - **Higher Rates of Poison Center Cases**
  - **Higher Rates of Emergency Department Visits**
  - **Higher Rates of Hospitalizations**
  - **Higher Rates of Overdose Deaths**



# Administrative Review Process

## HHS

- **Analysis**
- **Recommendation**

## DEA

- **Analysis**
- **Determination**



# Anticipated Next Steps

(if DEA determines a change is warranted):

## DEA

- **Analysis**
- **Proposed Rule**
  - **Public Comment Period**
  - **Public Hearing(s)**
- **Final Rule**

**OR**

## DEA

- **Analysis**
- **Final Rule (International Treaties)**



**The Public Comment period will be an **important opportunity** for stakeholders to provide feedback to the DEA before it makes a final determination.**



**The Drug Policy Alliance is working in partnership with United For Marijuana Decriminalization and other allies to urge participation in the DEA's upcoming public comment process and to call for and end to marijuana decriminalization.**

**We've created a tool to help people draft and submit public comments -- once the public comment period begins, this tool will be available at [DescheduleMarijuana.com](https://DescheduleMarijuana.com)**

**Tell The Biden Administration: Marijuana Must Be Decriminalized**

President Biden promised to decriminalize marijuana at the national level. Now, the Biden Administration's Drug Enforcement Administration (DEA) has proposed moving marijuana from Schedule I (most restrictive) to Schedule III (less restrictive), which would maintain its criminalization under the Controlled Substances Act (CSA). This would continue the country's failed approach on marijuana and fail to deliver the comprehensive reform that impacted communities and marijuana businesses need. Biden must call for marijuana to be removed from the CSA altogether.

As long as marijuana is scheduled on the CSA, the harms that come with marijuana criminalization will also continue.

**Submit public comment below to tell the Biden Administration marijuana must be descheduled. A shift to Schedule III isn't enough. Biden must deliver on marijuana decriminalization, invest in communities, repair the harms caused by the war on drugs, and treat state-licensed marijuana businesses like all other American businesses.**

Your Comment

Rescheduling marijuana to Schedule III is not enough. Remove marijuana from the CSA.

Thank you for this opportunity to comment on the DEA's proposed rule. While we appreciate the Biden Administration's efforts to reconsider marijuana's inappropriate classification as a

[Regulations.gov user notice](#)  
[Regulations.gov privacy notice](#)  
 View the document on which you are commenting

Your Information

First name \*

Last name \*

E-mail address \*

Address

Address Line 2

City

Phone

State

- None -

Zip Code

**Submit Your Comment**

## **If the DEA issues a proposed rule.....**

- **It will be published in the Federal Register.**
- **There will be a limited time period for public comment.**
- **There may be public hearings.**
- **There could be appeals/litigation.**



The screenshot shows a web browser at the URL [federalregister.gov](https://www.federalregister.gov). A yellow arrow points to the address bar. The page title is "Federal Register :: Schedules of Controlled Substances: Placement of Ganaxolone in Schedule V". The navigation bar includes "Sections", "Browse", "Search", "Reader Aids", and "My FR". The main header features the National Archives logo, the text "FEDERAL REGISTER The Daily Journal of the United States Government", and the National Archives and Records Administration seal. A blue bar contains a circled "R" icon and the word "Rule". The main content area displays the title "Schedules of Controlled Substances: Placement of Ganaxolone in Schedule V" and a subtitle "A Rule by the Drug Enforcement Administration on 06/01/2022".

**The DEA's Proposed Rule on marijuana will be published at [FederalRegister.gov](https://www.federalregister.gov).**



**Agency**  
**Action**  
**-Proposed Rule**  
**Summary**  
**Dates**  
**-Comment Period**  
**-Deadline to Request**  
**Public Hearing**

**AGENCY:**

Drug Enforcement Administration, Department of Justice.

**ACTION:**

Interim final rule; request for comments.

**SUMMARY:**

On March 18, 2022, the United States Food and Drug Administration approved a new drug application for ZTALMY, an oral suspension of ganaxolone, for the treatment of seizures associated with cyclin-dependent kinase-like 5 deficiency disorder in patients two years of age and older. The Department of Health and Human Services provided the Drug Enforcement Administration with a scheduling recommendation to place ganaxolone and its salts in schedule V of the Controlled Substances Act. In accordance with the Controlled Substances Act, as amended by the Improving Regulatory Transparency for New Medical Therapies Act, Drug Enforcement Administration is hereby issuing an interim final rule placing ganaxolone, including its salts in schedule V of the Controlled Substances Act.

**DATES:**

This rule is effective June 1, 2022. Comments must be submitted electronically or postmarked on or before July 1, 2022. Interested persons may file written comments on this rulemaking in accordance with [21 U.S.C. 811\(j\)\(3\)](#) and [21 CFR 1308.43\(g\)](#). Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons may file a request for a hearing or waiver of a hearing in accordance with [21 U.S.C. 811\(j\)\(3\)](#) and [21 CFR 1308.44](#). Requests for a hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before July 1, 2022.

**ADDRESSES:**

**Printed version:**

[PDF](#)

**Publication Date:**

[06/01/2022](#)

**Agencies:**

[Department of Justice](#)  
[Drug Enforcement Administration](#)

**Dates:**

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**Effective Date:**

[06/01/2022](#)

**Comments Close:**

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21 CFR 1308

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**Document Number:**

2022-11735



# Posting of Public Comments

## SUPPLEMENTARY INFORMATION:

### Posting of Public Comments

Please note, all comments received in response to this docket are considered part of the public record. The Drug Enforcement Administration (DEA) will make comments available, unless reasonable cause is given, for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want DEA to make it publicly available, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want DEA to make it publicly available, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

DEA will generally make available in publicly redacted form comments  containing personal identifying information and confidential business information identified, as directed above. If a comment has so much confidential business information or personal identifying information that DEA cannot effectively redact it, DEA may not make available publicly all or part of that comment. Comments posted to <http://www.regulations.gov> may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as confidential as directed above.

An electronic copy of this document and supplemental information to this interim final rule (IFR) are available at <http://www.regulations.gov> for easy reference.

# Request for Hearing or Appearance; Waiver

## Background and Legal Authority

### Request for Hearing or Appearance; Waiver

Pursuant to [21 U.S.C. 811\(a\)](#), this action is a formal rulemaking “on the record after opportunity for a hearing.” Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), [5 U.S.C. 551–559](#). [21 CFR 1308.41–1308.45](#); [21 CFR part 1316, subpart D](#). Interested persons may file requests for a hearing or notices of intent to participate in a hearing in conformity with the requirements of [21 CFR 1308.44\(a\)](#) or [\(b\)](#), and such requests must include a statement of the person's interests in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. [21 CFR 1316.47\(a\)](#). Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing together with a written statement regarding the interested person's position on the matters of fact and law involved in any hearing as set forth in [21 CFR 1308.44\(c\)](#).

All requests for hearings and waivers of participation, together with a written statement of position on the matters of fact and law involved in such hearing, must be sent to DEA using the address information provided above.

### Background and Legal Authority

Under the Controlled Substances Act (CSA), as amended in 2015 by the Improving Regulatory Transparency for New Medical Therapies Act (section 2(b) of Publ. L. 114–89), DEA is required to commence an expedited scheduling action with respect to certain new drugs approved by the Food and Drug Administration (FDA). As provided in [21 U.S.C. 811\(j\)](#), this expedited scheduling is required where both of the following conditions apply: (1) The Secretary of the Department of Health and Human Services (HHS) has advised DEA that a New Drug Application (NDA) has been submitted for a drug that has a stimulant, depressant, or hallucinogenic effect on the central nervous system (CNS), and that it appears that such drug has an abuse potential; and (2) the Secretary of HHS recommends that DEA control the drug in schedule II, III, IV, or V pursuant to [21 U.S.C. 811\(a\)](#) and [\(b\)](#). In these circumstances, DEA is



# **“Proposed” Determination To Schedule Substance**

## **DEA’s 8 Factor Analysis & Summary**

### **Determination To Schedule Ganaxolone**

On March 14, 2022, DEA received from HHS a scientific and medical evaluation entitled “Basis for the Recommendation to Control Ganaxolone and its Salts in Schedule V of the Controlled Substances Act” and a scheduling recommendation. Pursuant to [21 U.S.C. 811\(b\)](#) and [\(c\)](#), this document contained an eight-factor analysis of the abuse potential, legitimate medical use, and dependence liability of ganaxolone, along with HHS's recommendation to control ganaxolone and its salts under schedule V of the CSA.

In response, DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by HHS, along with all other relevant data, and completed its own eight-factor review pursuant to [21 U.S.C. 811\(c\)](#). DEA concluded that ganaxolone meets the [21 U.S.C. 812\(b\)\(5\)](#) criteria for placement in schedule V of the CSA.

Pursuant to subsection 811(j), and based on HHS' scheduling recommendation, the approval of the NDA by HHS/FDA, and DEA's determination, DEA is issuing this IFR to schedule ganaxolone as a schedule V controlled substance under the CSA.

Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its scheduling action. Please note that both DEA and HHS analyses are available in their entirety under “Supporting Documents” in the public docket for this IFR at <http://www.regulations.gov>, under Docket Number “DEA-990.” Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

#### **1. Its Actual or Relative Potential for Abuse**

Ganaxolone is an NME that has not been marketed in the United States or any country. Thus, evidence regarding its diversion, illicit manufacturing, or deliberate ingestion is currently lacking. DEA notes that there are no reports of law enforcement encounters of ganaxolone in the National Forensic Laboratory Information System (NFLIS) database,<sup>[3]</sup> which collects drug cases submitted to and analyzed by state and local forensic laboratories. Ganaxolone has sedative effects and is likely to have abuse potential, although less than that of schedule IV



# "Proposed" Determination of Appropriate Schedule

## Findings required to place drug in Schedule III

### Determination of Appropriate Schedule

The CSA lists the findings required to place a drug or other substance in any particular schedule (I, II, III, IV, or V). [21 U.S.C. 812\(b\)](#). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all available data, the Administrator of DEA (Administrator), pursuant to [21 U.S.C. 812\(b\)\(5\)](#), finds that:

*(1) Ganaxolone has a low potential for abuse relative to the drugs or other substances in schedule IV.*

Ganaxolone, a neuroactive steroid, is a positive allosteric modulator of GABA-A receptors and produces sedation in general behavioral studies including rotarod and locomotion studies. In a drug discrimination study in animals, ganaxolone generalized to midazolam (schedule IV), demonstrating it has GABA-A receptor agonist properties. In a self-administration study in animals, ganaxolone self-administration was significantly different from saline, but was less than that of methohexital (schedule IV) and heroin (schedule I). Ganaxolone produced positive subjective responses and euphoria-related AEs less than that of lorazepam (schedule IV), but greater than that of placebo in a human abuse potential study. Furthermore, data from pharmacokinetic clinical studies show that ganaxolone produced incidence of euphoria in 8.8 percent of healthy individuals as compared to 2.3 percent incidence following placebo. Therefore, ganaxolone has some potential for abuse, but it is low relative to lorazepam, methohexital and other substances in schedule IV. □

*(2) Ganaxolone has a currently accepted medical use in treatment in the United States.*

FDA recently approved the NDA for ZTALMY (ganaxolone) as an oral adjunctive therapy for the treatment of an epilepsy condition, cyclin-dependent, kinase-like 5 deficiency disorder, in patients aged two years and older. Thus, ganaxolone has a currently accepted medical use in treatment in the United States.

*(3) Abuse of ganaxolone may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.*



# Requirements for Handling

- Registration
- Disposal of stocks
- Security
- Labeling and Packaging
- Inventory
- Records and Reports
- Prescriptions
- Manufacturing and Distributing
- Importation and Exportation
- Liability

Based on these findings, the Administrator concludes that ganaxolone warrants control in schedule V of the CSA. [21 U.S.C. 812\(b\)\(5\)](#).

## Requirements for Handling Ganaxolone

Ganaxolone is subject to the CSA's schedule V regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule V substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, ganaxolone must be registered with DEA to conduct such activities pursuant to [21 U.S.C. 822, 823, 957, and 958](#) and in accordance with [21 CFR parts 1301 and 1312](#). Any person who currently handles or intends to handle ganaxolone and is not registered with DEA must submit an application for registration and may not continue to handle ganaxolone unless DEA has approved that application, pursuant to [21 U.S.C. 822, 823, 957, and 958](#), and in accordance with [21 CFR parts 1301 and 1312](#). These registration requirements, however, are not applicable to patients (end users) who possess ganaxolone pursuant to a lawful prescription.

2. *Disposal of stocks.* Any person unwilling or unable to obtain a schedule V registration to handle ganaxolone, but who subsequently does not desire or is not able to maintain such registration must surrender all quantities of currently held ganaxolone, or may transfer all quantities of currently held ganaxolone to a person registered with DEA. Ganaxolone is required to be disposed of in accordance with [21 CFR part 1317](#), in addition to all other applicable Federal, state, local, and tribal laws.

3. *Security.* Ganaxolone is subject to schedule III–V security requirements for DEA registrants, and it must be handled and stored in accordance with [21 CFR 1301.71–1301.77](#). Non-practitioners handling ganaxolone must also comply with the employee screening requirements of [21 CFR 1301.90–1301.93](#). These requirements, however, are not applicable to patients (end users) who possess ganaxolone pursuant to a lawful prescription.



**Rescheduling  
Marijuana to**

**Schedule III**

**Legal Consequences &  
Limitations**



# Consequences of Moving Marijuana to Schedule III

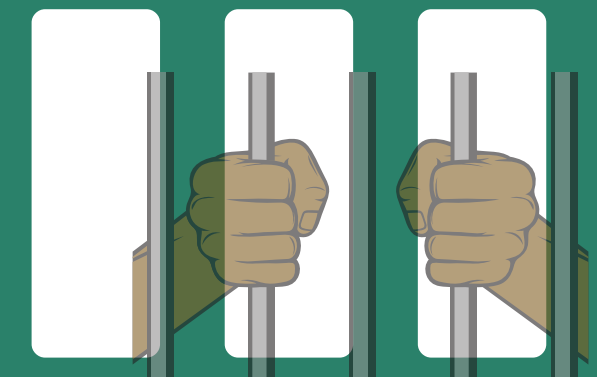
- **For scheduling purposes, marijuana is recognized to have:**
  - **Currently accepted medical use**
  - **Abuse Potential Less Than Schedule I and Schedule II drugs**
  - **Moderate to Low Safety & Dependence**
- **Tax Relief for Cannabis Industry (IRS Code 280E)**
- **Other Federal and State Policy Implications (ONDCP, E.O. on Employment, State Scheduling etc.)**



# The Five P's of

Rescheduling  
Marijuana to

# Schedule



to better understand its limitations

**Producers**

**Products**

**Prescriptions**

**Patients**

**Penalties**





# Producers

- The Drug Enforcement Administration is the agency primarily responsible for implementing and enforcing the CSA.
- The CSA requires any person handling marijuana to register with the DEA and follow DEA rules and regulations. This includes researchers, manufactures, distributors and medical professionals.
- If marijuana were moved to Schedule III, under federal law, **only entities registered with DEA can lawfully handle marijuana.**
- Any entity handling marijuana without a DEA registration would remain illegal under federal law.



# Products

- The FDA has authority to regulate products containing cannabis and cannabis-derived compounds under existing federal law.
- Marijuana itself is not an FDA approved product. To date, the FDA has not approved a marketing application for any marijuana product for any clinical indication.
- The FDA has approved one cannabis-derived drug product (Epidiolex) and three cannabis-related drug products (Marinol, Syndros, & Cesamet).
- If marijuana were moved to Schedule III, under federal law, **only FDA-approved marijuana products would be legal.**
- All non FDA approved marijuana products--including state-regulated medical and adult-use products -- would remain illegal under federal law.

# Prescriptions & Prescribers

- The determination to place drugs on prescription is within the jurisdiction of the FDA. Unlike other prescription drugs, however, controlled substances are subject to additional restrictions under the CSA.
- Medical professionals who work with controlled substances (physicians, pharmacies, hospitals etc) are required to register with DEA and follow DEA regulations.
- FDA approved cannabis-derived and cannabis-related products are only available with a prescription from a licensed healthcare provider.
- If marijuana were moved to Schedule III, under federal law, **if the FDA approved- any marijuana products, these products would only be accessible via prescription.**
- Accessing marijuana through any other means --such as through state-regulated medical and adult-use marijuana programs -- would remain illegal under federal law.

# Patients

- If marijuana were moved to Schedule III, under federal law, **lawful marijuana use would be limited to patients using FDA approved-marijuana products pursuant to valid prescriptions.**
- Without FDA-approval, a controlled substance, such as marijuana, will be ineligible for health insurance reimbursement.
- All other marijuana use would be considered illegal under federal law.



# Penalties

- The CSA establishes penalties for unlawful manufacturing, distribution, dispensing and possession of controlled substances.
- Most penalties for marijuana under the CSA are based upon quantity and are unrelated to its schedule -- as a result, if marijuana is moved to Schedule III, virtually all marijuana activity will remain illegal under federal law.



**Producers**

**Products**

**Prescriptions**

**Patients**

**Penalties**



# Federal Law

## State

**Medical Marijuana Programs**

**Medical Marijuana**

**Medical Marijuana Use**

**Medical Marijuana Patients**



## State

**Recreational Marijuana Programs**

**Recreational Marijuana**

**Recreational Marijuana Use**

**Recreational Marijuana Users**

Federal law makes no distinction between state medical marijuana programs and state adult use marijuana programs -- both are equally unlawful under the CSA.

A DOJ appropriations rider in place since 2014 prohibits the federal prosecution of state-legal medical marijuana activity; however, that protection exists today while marijuana is in Schedule I and would not be enhanced by rescheduling to Schedule III.

**“currently  
accepted  
medical use”**



**describes 1 of 3 findings  
needed for drug scheduling  
under CSA**



**is not the same as FDA Approval. To date,  
the FDA has not approved a marketing  
application for cannabis for the  
treatment of any disease or condition.  
FDA has, however, approved one  
cannabis-derived and three cannabis-  
related drug products. These approved  
products are only available with a  
prescription from a licensed healthcare  
provider.**


**To Decriminalize  
Marijuana, It Must Be**

**Descheduled**

**(Removed From the CSA Entirely)**





**Drug Policy Alliance** 

@DrugPolicyOrg

Rescheduling would NOT:

- ✗ End marijuana arrests;
- ✗ Release those in prison for marijuana;
- ✗ Restore access to public benefits;
- ✗ Protect legalized state marijuana programs;
- ✗ Protect workers in the marijuana industry; or
- ✗ Right the wrongs of racially-discriminatory enforcement.

**If marijuana is moved to Schedule III, it will remain illegal and will continue harming individuals, families and communities and will continue to adversely impact :**

**Criminal Penalties**

**Racial Disparities**

**Housing**

**Employment**

**Education**

**Healthcare**

**Local & State Medical and**

**Adult-Use Programs & Local &**

**State-Authorized Cannabis**

**Industry**

**Immigration/Visa Status**

**Gun Rights**

**Military Benefits**

**Bankruptcy (Cannabis Industry)**

**Banking (Cannabis Industry)**



**Rescheduling  
Marijuana to**

**Schedule III**

**Is Not Enough.**

# How can you help?

- **Educate the public, policymakers and other government officials on the consequences and limitations of rescheduling marijuana.**
- **If there's a public comment process**
  - **Participate and support decriminalization.**
  - **Encourage other to participate and support decriminalization.**
- **Follow and support the Drug Policy Alliance and United for Marijuana Decriminalization in their efforts on federal marijuana reform.**

# Resources

- [DPA's Webpage on Federal Marijuana Scheduling](#)
- [Video of DPA's February 2024 Press Conference on Federal Marijuana Scheduling & Communities of Color](#)
- [United for Marijuana Decriminalization's Website](#)
- [President Biden's Statement on Marijuana Reform](#)
- [HHS Recommendation & Analysis](#)
- [DEA Drugs of Abuse \(2022 Edition\)](#)
- [FDA \(Webpage\) Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol \(CBD\)](#)
- [CRS Report Legal Consequences of Rescheduling Marijuana January 16, 2024](#)



# Resources

- [DPA's Webpage on Federal Marijuana Scheduling](#)

**TELL PRESIDENT BIDEN TO ACT ON FEDERAL MARIJUANA REFORM.**



SUPPORT MARIJUANA DECRIMINALIZATION NOW.

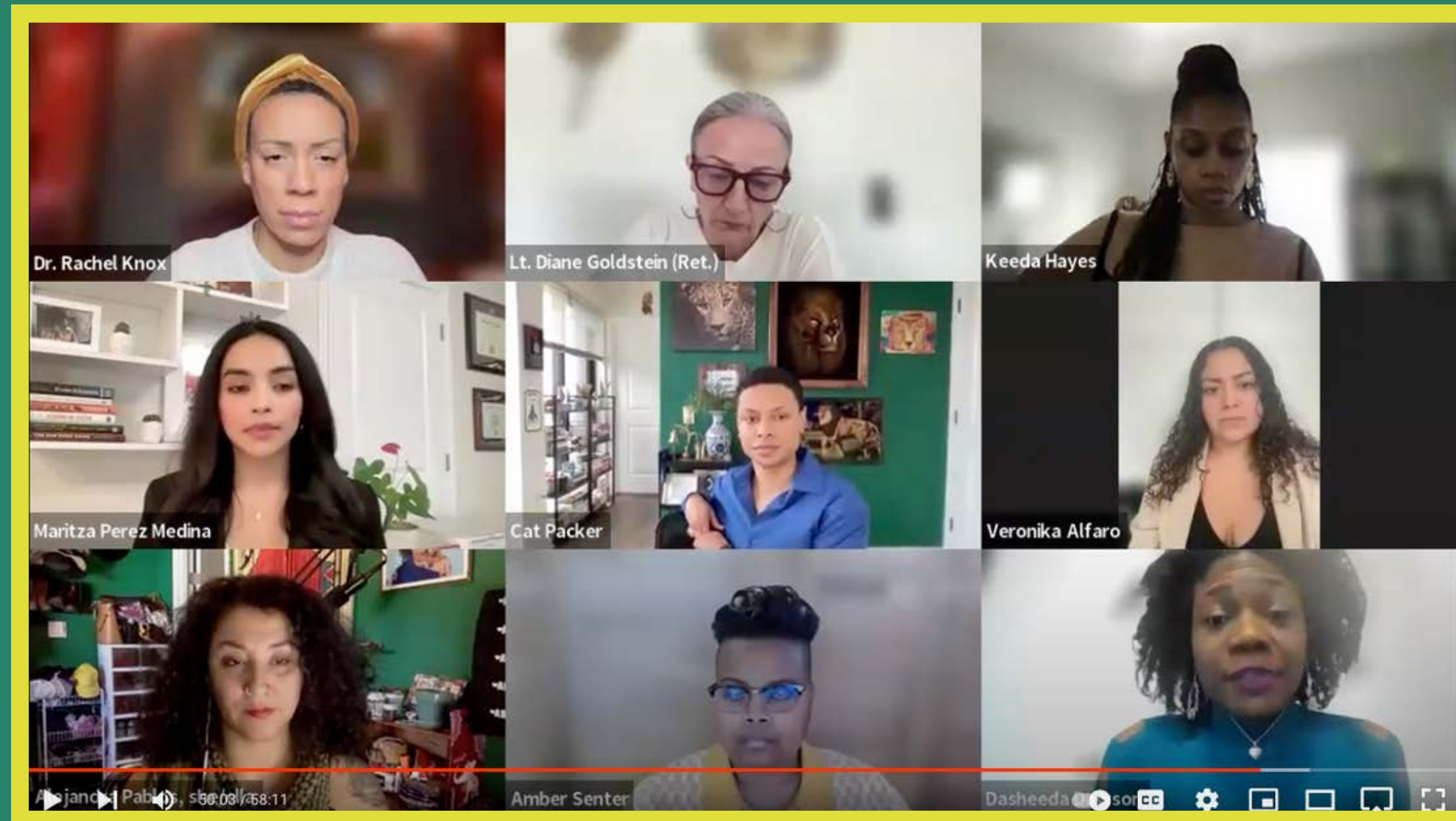
## **President Biden Promised to Decriminalize Marijuana.**

In 2020, when Biden campaigned for President, he promised to expunge prison records and decriminalize marijuana. He acknowledged that arrests and imprisonment affect Black and Latinx communities at a disproportionate rate. In August 2023, it was reported that the Department of Health and Human Services recommended moving marijuana to Schedule III of the Controlled Substances Act (CSA). But this will not decriminalize marijuana as he promised. Now, the Drug Enforcement Administration is reviewing this recommendation and will make its own determination. Because it is unlikely the DEA will deschedule marijuana, President Biden must call on Congress to pass marijuana legislation that would completely remove marijuana from the CSA to decriminalize it. He must also pursue executive actions, now, to lessen the harms of marijuana criminalization to provide immediate relief until Congress passes a permanent and comprehensive solution.



# Resources

- [Video of DPA's February 2024 Press Conference on Federal Marijuana Scheduling & Communities of Color](#)



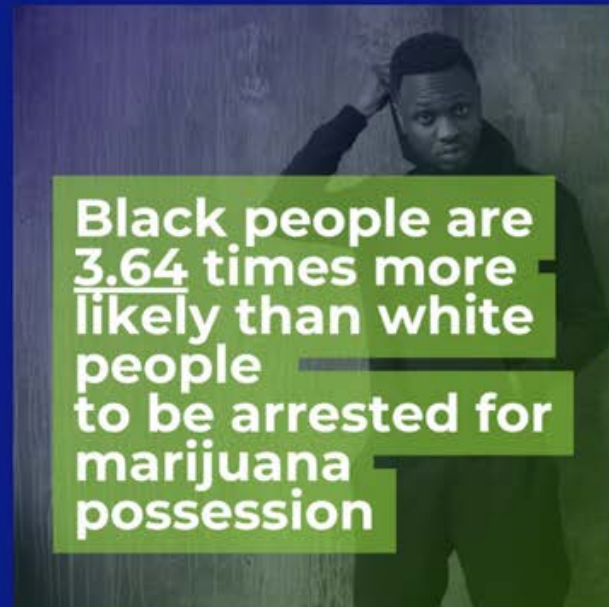
# Resources

- [United for Marijuana Decriminalization's Website](#)

## Rescheduling Alone Continues the War on Drugs

President Biden campaigned on decriminalizing marijuana, yet the racialized criminalization persists.

According to data from the ACLU, **Black people are 3.64 times more likely than white people to be arrested for marijuana possession, notwithstanding comparable usage rates.** In 2020, over 350,000 Americans were arrested for marijuana, with the overwhelming majority being for possession alone.



- 1** Rescheduling marijuana alone **will not** release anyone currently incarcerated for a marijuana conviction or expunge any marijuana-related records. Nor would it address the immigration-related consequences which are a leading cause of deportation of immigrants from the US or restore eligibility for public benefits such as housing and food assistance.
- 2** Rescheduling alone **will not** federally legalize the existing medical and adult-use regulatory programs which currently exist in 38 states or state-legal cannabis industry businesses which currently employ over 400,000 workers.
- 3** **If marijuana is only rescheduled with no further guidance, virtually all medical and non-medical use of marijuana currently legal under state law will remain a criminal offense.** Although existing cannabis companies would no longer be penalized from a federal tax perspective, all cannabis products including all cannabis plant products, edibles, and topicals, will remain illegal unless individually approved by the FDA.





**Questions?**

**CITY OF OAKLAND CANNABIS REGULATORY COMMISSION  
2022-2023 ANNUAL REPORT**

**To:** Oakland City Council Community Economic Development Committee  
**From:** Cannabis Regulatory Commission  
**Re:** 2022-2023 Annual Report  
**Date:** January 29, 2024

**Members:** Chaney Turner, Chair, At Large; TiYanna Long, Vice-Chair, City Auditor; Javier Armas, District 1; Tracey Corder, District 2; Taib Alaoui, District 3; Tariq Ikharo, District 4; Vacant, District 5; Vacant, District 6; Hellen Harvey, District 7; Yulie Padmore, Mayor; Greg Minor, City Administrator.

**I. EXECUTIVE SUMMARY**

The Cannabis Regulatory Commission (CRC) struggled to meet at times in 2022-2023 due to lack of quorum, but when the CRC did meet it shaped the City of Oakland's (City's) cannabis policies. 2022 discussions ranged from how to improve the security of cannabis businesses, to examining financial data for trends in the regulated marketplace, to how to utilize state grants, and whether to support the proposed Emerald New Deal ballot measure. Likewise, in 2023 the CRC advocated to limit cannabis operations on properties with live-work uses, allow cannabis operators to qualify for state licenses while obtaining local approvals, and authorize equity applicants to convert loans into grants and have the option of transferring permits to general applicants.

CRC meetings provide an essential forum for the public to guide the City's cannabis program, however, in order for this public forum to remain available, it is critical that the City Council fill CRC vacancies and that existing CRC members improve their attendance. In turn the CRC can continue to engage in policy discussions around the transition of the cannabis industry into the regulated marketplace and the evolution of the City of Oakland's Equity Program (Equity Program).

**II. CANNABIS REGULATORY COMMISSION COMPOSITION AND ATTENDANCE**

In 2023 the City filled three of four vacancies then existing on the CRC, leaving just the District Five representative vacant. However, in 2023 delays in appointing new CRC members combined with inconsistent member attendance and the requirement that boards return to meeting in person contributed to the CRC only having quorum for meetings in January, February, October, and November 2023. At present the CRC has vacancies for representatives of Districts Five and Six.

In terms of public engagement, public attendance at CRC meetings ranges from around ten to twenty individuals depending on the agenda topics. Attendees typically represent cannabis businesses across the supply chain, including both equity and general applicants.

### **III. OVERVIEW OF CURRENT OAKLAND CANNABIS LANDSCAPE**

The following factors have shaped the cannabis landscape in Oakland over the last two years: (a) a newly regulated and highly taxed industry with an evolving Equity Program; (b) state grants that vary depending on local contributions; and (c) armed burglaries of cannabis businesses.

#### **a. Newly Regulated Industry and Evolving Equity Program**

After changes in state law and a race and equity analysis of the cannabis industry, in 2017 the City of Oakland adopted a permitting process for the cannabis industry's entire supply chain and an Equity Program to promote equitable ownership opportunities in the regulated cannabis marketplace. Over the last seven years, cannabis businesses seeking to operate legally have gone from operating without any regulation to operating in a dual-licensed regulatory system with multiple layers of taxation.

The challenges of operating within the regulated marketplace are compounded by the fact that an unregulated cannabis marketplace operates in parallel to the regulated market. The unregulated cannabis market can offer cannabis at a lower price than the regulated market as unregulated operators do not have to account for taxes, fees, or the cost of compliance, such as laboratory testing of cannabis for potency and pesticides, bringing a building into compliance with building and fire codes, and security requirements.

Similar to the cannabis industry, the Special Activity Permits Division, now in the Economic and Workforce Development Department (EWDD) has transitioned from monitoring eight dispensaries in 2017 to processing thousands of cannabis permit applications and directing the nation's first Equity Program equity program. The Equity Program has evolved from permitting prioritization to technical and legal assistance, revolving loan and grant programs, shared-use manufacturing facilities, workforce development programs, and purchasing property programs.

#### **b. State Grant Funding Based on Local Contributions**

Although the City of Oakland has received millions of dollars in state grants in recent years, Oakland's competitiveness for state funding depends on its willingness to continue investing City funds in its Equity Program. In 2017 the City made an impressive financial commitment to promote equitable business

ownership opportunities in the regulated cannabis industry by directing the initial \$3.4 million of new cannabis tax revenue towards a revolving loan program and technical and legal assistance for cannabis equity applicants. While the City has continued to support the Equity Program by exempting equity applicants from City application and permitting fees, the City has only made an additional direct investments in the Fiscal Year 2022-2023 midcycle budget.

Since 2020 the City has been able to continue and grow its Equity Program through state grants from Go-Biz, however, GO-Biz's available funding has fluctuated and its funding criteria weighs heavily in favor of local jurisdictions who invest their own funds in their equity programs. Go-Biz's criteria has helped Oakland "outpunch its weight" and at times receive more funding that even Los Angeles, a jurisdiction with ten times the population of Oakland, but Oakland needs ongoing local investment to remain competitive in the future.

### **c. Armed Burglaries**

Cannabis businesses in Oakland and beyond are increasingly becoming targets of burglars and robbers, including by caravans of armed burglars, such as in the summer of 2020 and in November 2021. This is despite the fact that most cannabis business locations are not open to the public and feature security measures, such as cameras, alarms, and safes.

The burglaries usually take place at night and often on the weekends when there are either fewer officers on duty (due to only patrol staff being on duty) or officers are handling other calls for service, such as shootings, robberies, domestic violence and other non-property crimes where someone is injured or could be injured. Burglars and robbers are motivated by the prospect of obtaining cannabis products for sale on the unregulated market as well as any cash onsite due to cannabis operators' limited access to the banking system.

Furthermore, the lack of quick response time from law enforcement likely emboldens burglars and robbers to take advantage of cannabis businesses in Oakland. Delayed response time is due to a combination of factors, including the prioritization of crimes threatening lives over property crimes, huge volume of calls for service, shortage of officers, and time-intensive documentation requirements.

In terms of who is committing the burglaries and robberies, and how they are taking place, those committing the burglaries and robberies are often from outside of Oakland and they are employing increasingly aggressive measures. For example, of the eight arrested on November 21, 2021, only two were from Oakland. This presents a challenge to violence prevention strategies limited to within Oakland's borders. Burglars and robbers have also escalated from unarmed theft to armed caravans, and from utilizing ladders to access cannabis facilities to driving vehicles through structures and using blowtorches.

#### IV. 2022 CRC POLICY DISCUSSIONS

##### i. Improving the Security of Oakland’s Cannabis Businesses

As noted above, several cannabis businesses have suffered from burglaries and robberies since 2020. Improving the safety of cannabis businesses in Oakland is paramount to preserving Oakland’s cannabis industry, which provides wealth-building and employment opportunities in addition to City tax revenues.

Accordingly, in 2022 CRC recommended that the City explore any local and state resources available to prevent ongoing burglaries of cannabis facilities. Specifically, the CRC recommended that staff request funding from the Board of State and Community Corrections Proposition 64 Cohort 3 Grant Program to fortify cannabis operators’ business locations.

##### ii. Trends in Oakland’s Regulated Cannabis Marketplace

In 2022 the CRC received two reports from the Finance Department, which provide information on both the amount of taxes received from cannabis businesses as well as information on cannabis businesses themselves. The initial finance report revealed a decrease in tax revenue received in 2022 compared to 2021 as a result of the decreased tax rates approved by City Council in 2019. The supplemental finance report showed that the total gross receipts of Oakland’s cannabis industry has grown from approximately \$156 million in 2017 to over \$244 million in 2022; however 2022 gross receipts represented a decrease from Oakland cannabis businesses total gross receipts in 2021 which totaled over \$271 million. This trend continued into 2023 as noted in **Table One** below. **Table Two** outlines the number of regulated cannabis businesses in Oakland and the amount of tax revenue received by the City between 2015-2023, which has been impacted by the lower cannabis tax rates and new tax structure adopted by the City Council in December 2019.

Table 1: Annual Gross Receipts Tax Years (2018 – 2023)

Year	2018	2019	2020	2021	2022	2023
Equity	N/A	N/A	\$21,141,465.27	\$35,974,745.13	\$37,803,609.10	\$37,609,413.12
General	N/A	N/A	\$152,193,969.69	\$235,610,581.28	\$207,113,784.78	\$163,441,215.46
Total Gross Receipts	\$171,546,992.15	\$165,351,330.15	\$173,335,434.96	\$271,585,326.41	\$244,917,393.88	\$201,050,628.58

Table 2: Cannabis Business Tax Revenue

<b>Tax Year</b>	<b>Number of Business</b>	<b>Revenue</b>
2023	266	\$5.64 million
2022	259	\$7.92 million
2021	187	\$13.47 million
2020	252	\$8.89 million
2019	195	\$12.85 million
2018	139	\$8.07 million
2017	85	\$7.48 million
2016	77	\$4.64 million
2015	70	\$3.61 million

These financial reports suggest that Oakland’s regulated cannabis industry has grown over the last five years, however, it hit its peak during the 2021 tax year/calendar year of 2020 and Oakland’s equity businesses are generally much smaller than general applicant businesses.

**iii. How Best to Utilize State Grants**

In addition to monitoring the implementation of state grants already received, in 2022 the CRC offered recommendations on how to allocate the second grant received from the Go-Biz and what to request funding for as part of the City’s Proposition 64 Cohort 3 Grant application. Specifically, the CRC approved utilizing Go-Biz funding to support the purchase of a property that support multiple equity applicants, grants for equity applicants’ start-up and ongoing costs, workforce development and shared-use manufacturing programs. Likewise, the CRC recommended that the City request Proposition 64 Cohort 3 funds to improve the security of cannabis operators’ business locations.

**iv. Discouraging the Use of Diesel Generators**

In 2022 the CRC also received public comment on the use of diesel generators by cannabis cultivators, particularly at two large warehouses referred to as the Oakland Cannery and Tinnery. These discussions paralleled enforcement efforts by the Bay Area Air Quality Management District, the Environmental Democracy Project, and the Oakland Fire Department that led to the abatement of diesel generators at these and other properties.

**v. Emerald New Deal Proposed Ballot Measure**

During the first half of 2022 the CRC hosted three different presentations by proponents of the Emerald New Deal (END) proposed ballot measure. After the first presentation the CRC recommended that END work with stakeholders, particularly the cannabis industry and equity applicants. After the second presentation the CRC issued a qualified endorsement provided that the END provide information on how the END will support the Equity Program and work to

lower cannabis tax rates. Ultimately, the City Council elected to not place on the END on the ballot for Oakland voters in November 2022.

## **V. 2023 CRC POLICY DISCUSSIONS**

Below is an overview of topics the CRC discussed in 2023.

### **i. Preserving Live-Work Uses**

In February 2023 the CRC adopted a motion to support the Oakland Cannery and other live-work properties at risk of displacement by cannabis uses. Subsequently, in July 2023 the City Council approved amending Oakland Municipal Code (OMC) 5.81 to prohibit the approval and/or permitting of commercial cannabis cultivation at properties with live-work uses.

### **ii. Lowering Barriers to State Licenses**

In light of the sunset of provisional licensing at the state level, the CRC advocated for both local and state action. For instance, in January 2023 the CRC adopted a motion to support state Senate Bill (SB) 51, which extends the provisional licensing period for equity retailers. Subsequently, the Legislature passed and Governor Newsom signed SB 51 into law. Likewise, in February 2023 the CRC passed a motion for staff to amend the City's Cannabis Operator Regulations to allow operators to qualify for an annual license prior to obtaining final approvals from all City agencies, provided operators have entered into and are in compliance with a compliance plan. Afterwards, staff amended the City's Cannabis Operator Regulations to align with the CRC's vision.

### **iii. How Best to Utilize State Grants**

Also in February 2023, the CRC reviewed and approved staff's proposed use of the latest grant from the Governor's Office of Business and Economic Development (Go-Biz) to support the City's Equity Program. Specifically, the CRC approved focusing funds on providing capital support to cannabis operators via grants and no-interest loans to cover start-up and ongoing costs.

### **iv. Next Phase of Equity Program**

Later in 2023 the CRC weighed in on two topics that had been debated for multiple years at the CRC: whether and how to allow the City to forgive equity applicants' unpaid loans and transfer permits to general applicants. These topics required consideration of the Equity Program's intent as well as how to shape the program going forward. Ultimately, in October 2023 the CRC approved providing equity applicants with the options of transferring their permits to general applicants and converting unpaid loans into grants. Then in December 2023 the City Council approved the CRC's recommendations.



**v. Encouraging Special Events**

In October 2023 the CRC also passed a motion to increase the number of cannabis special event permits and approved the creation of cannabis cafes, cannabis retailers that sell non-alcoholic beverages and food. While Governor Newsom vetoed state legislation to allow cannabis cafes, in December 2023 the City Council approved removing the cap on the number of cannabis special event permits for a one-year pilot period.

**vi. Upcoming Discussions**

In addition to discussing the above topics, in 2023 the CRC agendaized future discussion regarding establishing a Department of Cannabis and reexamining what new zones cannabis businesses can potentially locate in.

**VI. Conclusion and Next Steps**

The CRC is grateful for the opportunity to share with the City Council its 2022-2023 annual reports. The above recommendations and information will assist the City’s cannabis program in continuing to evolve in an equitable and responsible manner.

Respectfully submitted,

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Chair  
Cannabis Regulatory Commission

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Vice-Chair  
Cannabis Regulatory Commission

Attachment One:  
2023 Initial Finance Department Report to the Cannabis Regulatory Commission

**2024 ADDENDUM**  
**TO ADMINISTRATIVE REGULATIONS AND PERFORMANCE STANDARDS**  
**FOR CITY OF OAKLAND CANNABIS OPERATORS**

Last Updated January 29, 2024

**I. Introduction**

On December 5, 2023 the Oakland City Council adopted [Ordinance No. 13775 C.M.S.](#), which amended Oakland Municipal Code 5.80 and 5.81 to allow an Equity Applicant to transfer their local authorization status or permit to a General Applicant one year after receipt of a cannabis permit or three years after submitting a cannabis permit application, whichever occurs first.

Furthermore, [Ordinance No. 13775 C.M.S.](#) authorized the City Administrator to develop regulations to implement the transfer approval process. Accordingly, below please find the City of Oakland's (City's) regulations on transfer approvals; please note that to the extent there is any conflict between this addendum and [the City's current Cannabis Operator Regulations](#), namely Section G. Transfer of Permits, this addendum supersedes the existing Cannabis Operator Regulations.

**II. Transfer Approval Process**

1. The City of Oakland may approve the transfer of an Equity Applicant's cannabis permit or local authorization status to a General Applicant after the transferor and transferee complete the following:

- a. Submit a complete transfer request form to the Special Activity Permits Division.  
The completed form shall include the name and contact information of the proposed transferee, the terms the transaction between the transferor and transferee, and a completed LiveScan background check for transferee's board members, partners and managers.
  - b. Provide proof of current compliance with the Oakland Fire Code as demonstrated via a Fire Inspection Report from the Oakland Fire Department from within the last thirty (30) days.
  - c. Provide a current business tax certificate for the dispensary's business entity.
  - d. Confirm that either one year has passed since the transferor received their cannabis permit or three years have passed since they submitted their cannabis permit application.
2. Other than equity ownership commitments, transferees that obtain dispensary permits that were selected through a competitive (scored) process must satisfy all commitments made by the transferor in their initial dispensary permit application, such as commitments to sell equity products, purchase products from Oakland equity distributors and cultivators, and local hiring.
  3. If the transferor has an outstanding loan from the City of Oakland, the loan must be repaid in full.

# 2024 Oakland Equity Applicant Survey

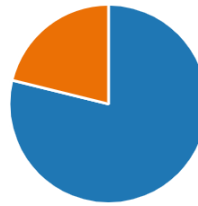
52  
Responses

85:10  
Average time to complete

Active  
Status

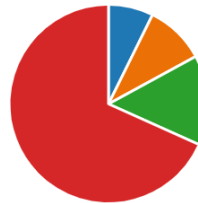
1. Are you currently operating?

- Yes 41
- No 11



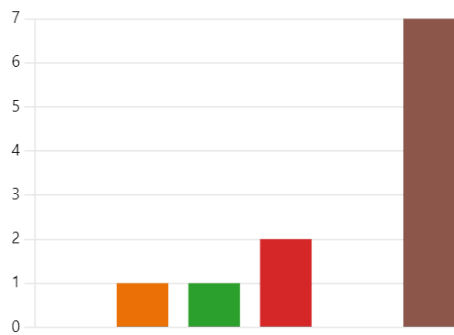
2. How long have you been operating?

- 0-6 months 3
- 7-12 months 4
- 1-2 years 6
- More than 2 years 28



3. Please select the top reason why you are not operating. If you select "Other," please explain.

- Incubation period ended and co... 0
- Build-out was too expensive. 1
- It took too long to generate rev... 1
- Burglaries 2
- Negative incubation experience. 0
- Other 7



4. How many individuals do you currently employ? For this question, an employee is someone who works at least 35 hours a week.

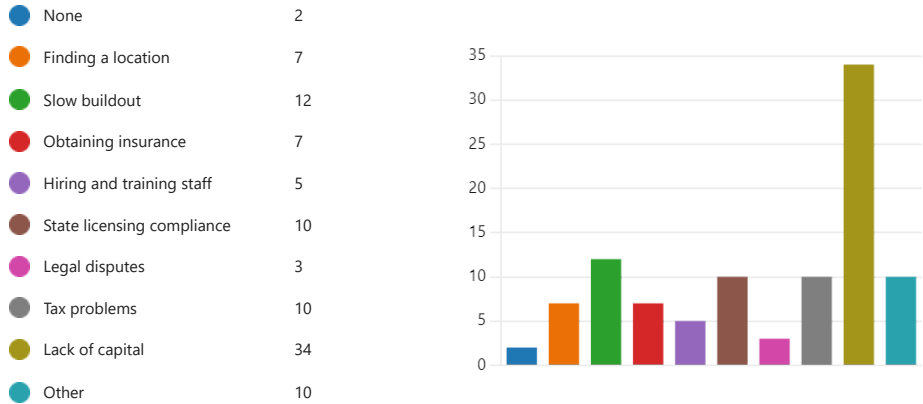
- None. I run my business by mys... 30
- 1-2 4
- 3-5 5
- 6-10 0
- More than 10 2



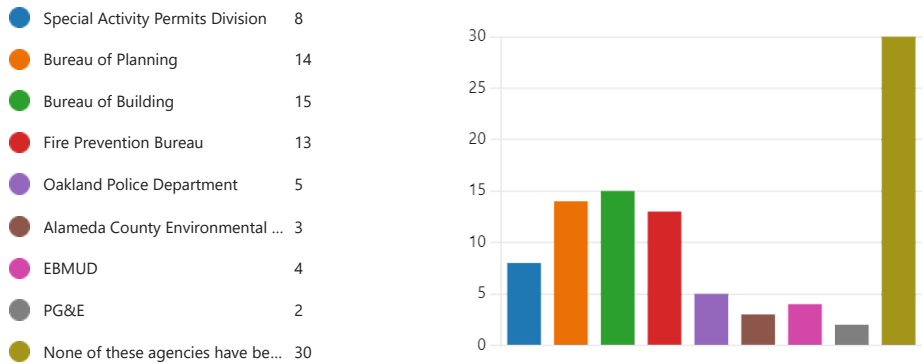
5. Have you added or reduced staff in the last 12 months?



6. What barriers are you encountering as you establish a compliant cannabis business (please select all that apply)? If you select "Other," please explain.



7. Which of the following City departments/outside agencies have been a barrier as you establish your business? Please select all that apply.

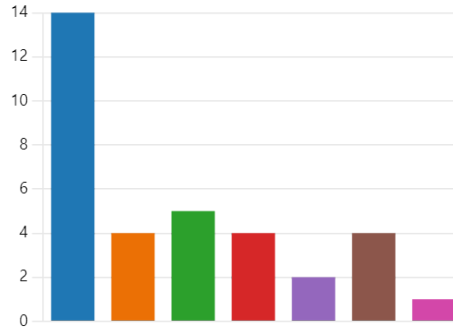


8. Has your business or staff experienced any burglaries or robberies?



9. How much have burglaries/robberies cost your business financially?

● Less than \$10,000	14
● \$10,001-\$25,000	4
● \$25,001-\$50,000	5
● \$50,001-\$75,000	4
● \$75,001-\$100,000	2
● \$100,001-\$200,000	4
● More than \$200,000	1



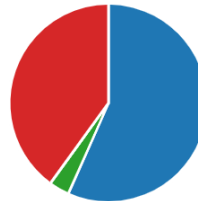
10. After the burglary/robbery, did your business do any of the following? Please select all that apply and please describe if you select "other."

● File a police report	26
● Apply for the City of Oakland's ...	9
● Other	6



11. After the burglary/robbery, did your business file an insurance claim, and if so, did your business receive a payout from your insurance company?

● No, our business did not file an ...	17
● Yes, our business filed a claim a...	0
● Yes, our business filed a claim a...	1
● Our business filed a claim but re...	12



12. Can you please explain why you did not file an insurance claim?

17 Responses

Latest Responses

13. Please rate your business' future outlook.

● Very promising	6
● Promising	16
● Neutral	17
● Negative	8
● Very Negative	5



14. Now that the City Council has approved equity applicants transferring their permits to general applicants, do you plan on selling your business and transferring your permit(s) to another business?

Yes	3
I have not decided	14
I am considering the option	13
No	20
Other	2



15. Have you received a grant or loan from the City of Oakland?

Yes	45
No	7



16. What impact did receiving funding from the City have on your business?

The funding allowed our busine...	7
The funding allowed our busine...	32
The funding had no noticeable i...	1
Other	5



17. Have you received a loan from the City of Oakland?

Yes	30
No	15

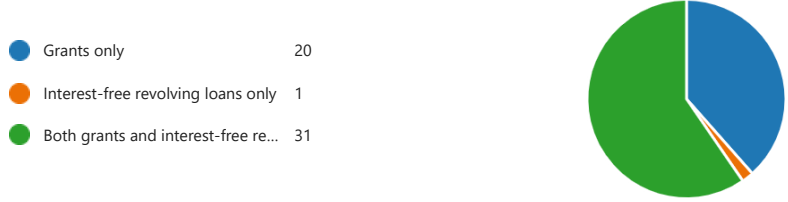


18. Now that the City Council has authorized equity applicants converting unpaid loans into grants, do you plan on converting any of your outstanding loan balance into a grant? Please note any loan amount that is converted to a grant will reduce your future grant eligibility by that amount.

Yes	21
No	9



19. How do you recommend that the City provide capital to operators: grants, interest-free revolving loans, or both? Please note that while loans must be repaid, loans are not taxable and loan repayments provide future funds for equity applicants. On the other hand, grants need not be repaid, but they are taxable and provide no future funds to equity applicants.



20. The City is looking for strategies to streamline grant/loan processing going forward and ensure funds are used most effectively. By clicking on the up or down arrows, please prioritize the below options for funding (1=top priority for funding; 6=lowest priority).



21. What strategies do you recommend for streamlining loan/grant funding going forward?

52 Responses

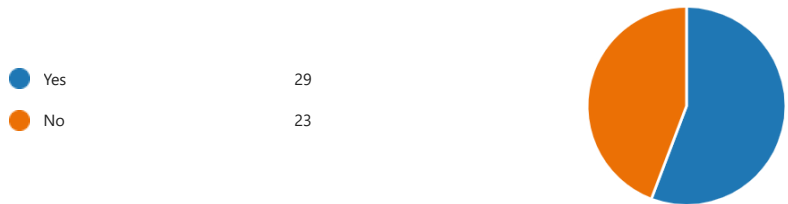
Latest Responses

"Less processes "

"Keep using the online system for us to use to submit applications and track ...

"Have monthly mandatory accountability meetings, making sure that everyt...

22. Have you utilized Knox and Ross, the City's legal assistance provider for equity applicants?



23. How would you rank Knox and Ross' services?





24. Do you have any comments or suggestions regarding Knox and Ross?

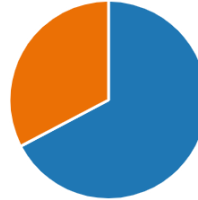
18  
Responses

Latest Responses

"I am currently working with Knox and Ross to recover payments from the b..."  
"Record more content "

25. Have you utilized Oaksterdam University, the City's free technical assistance provider for equity applicants?

● Yes	35
● No	17



26. How would you rank Oaksterdam University's services?

● Very helpful	16
● Somewhat helpful	8
● Neither helpful nor unhelpful	3
● Somewhat unhelpful	6
● Very unhelpful	2



27. Do you have any comments or suggestions regarding Oaksterdam University?

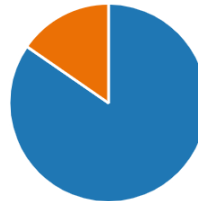
35  
Responses

Latest Responses

"This is a great partnership!"  
"not sure exactly how they can help me or who is working with that team to ..."

28. Have you utilized Elevate Impact, the administrator of the City's loan and grant programs for equity applicants?

● Yes	44
● No	8



29. How would you rank Elevate Impact's services?

● Very helpful	16
● Somewhat helpful	11
● Neither helpful nor unhelpful	3
● Somewhat unhelpful	5
● Very unhelpful	9



30. Do you have any comments or suggestions regarding Elevate Impact?

31  
Responses

Latest Responses

*"To be more responsive."*

*"They were helpful, entire team was reachable and always willing to help! "*

*"Great Program "*

31. How can the City of Oakland better support your business?

41  
Responses

Latest Responses

*"Assist EA's with connecting with reputable business partners."*

*"keep up the good work! I appreciate you Oakland "*

*"Marketing opportunities "*

32. What else would you like to say about operating a cannabis business in Oakland?

41  
Responses

Latest Responses

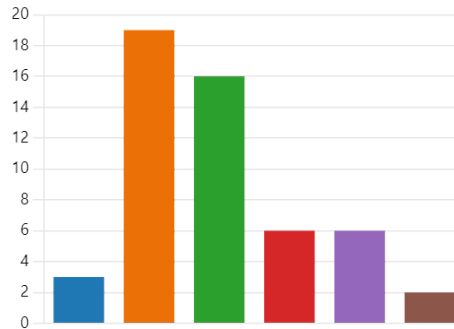
*"I think it's a great program, I just need to get more looped in."*

*"It's easy to navigate thanks to the support that we have from the City of Oa..."*

*"It's been long and hard but I love my business."*

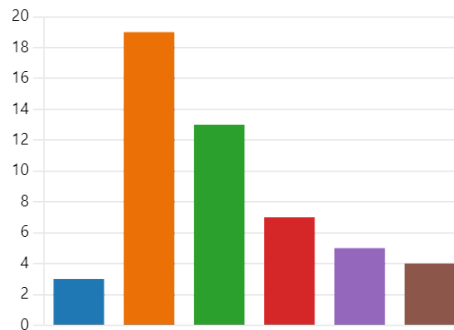
33. Please select your age or the average age of your business' partners/owners/board members.

21-30	3
31-40	19
41-50	16
51-60	6
Over 60	6
Decline to state	2

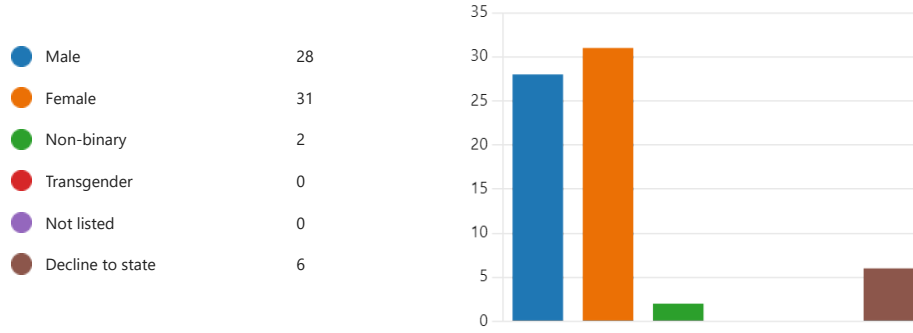


34. Please select your age or the average age of your business' partners/owners/board members.

21-30	3
31-40	19
41-50	13
51-60	7
Over 60	5
Decline to state	4



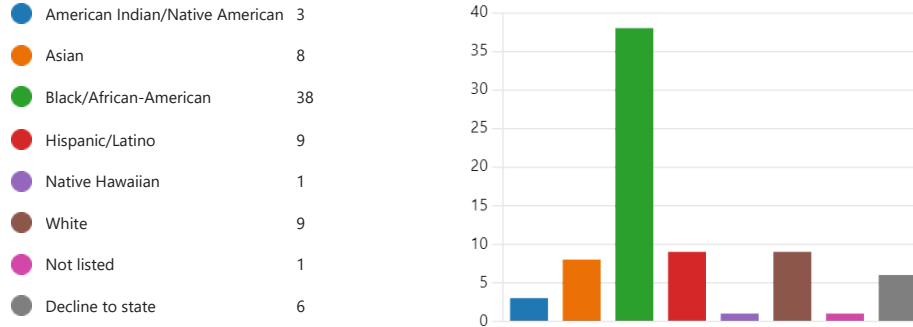
35. Please select all gender options below that represent your business' owners/partners/board members.



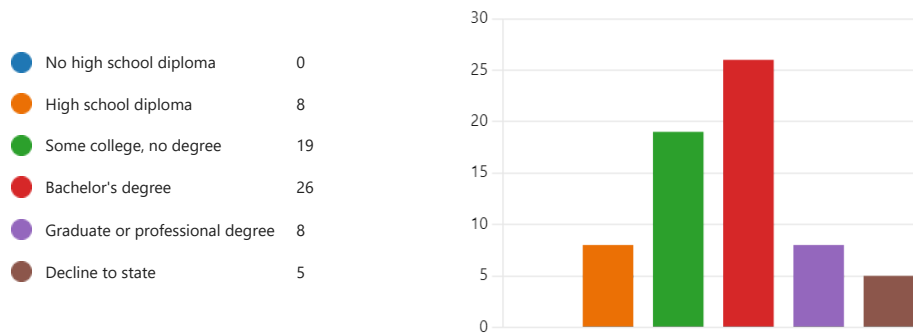
36. Please select all sexual orientation options below that represent your business' owners/partners/board members.



37. Please select all race and ethnicity options below that represent all of your business' owners/partners/board members.



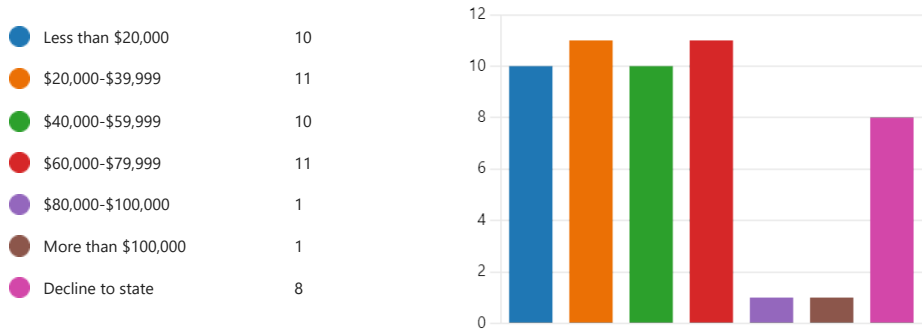
38. Please select the level(s) of education that represent(s) all of your business' owners/partners/board members.



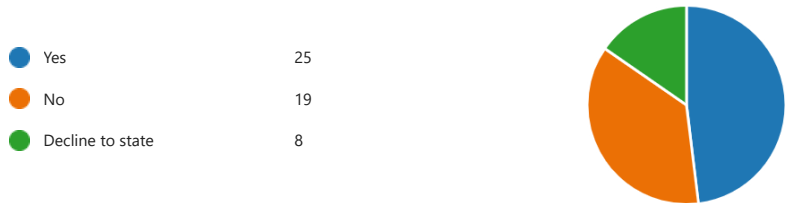
39. Does one or more of your business' owners/partners/board members have a disability?



40. Please select the annual personal income level(s) that represent(s) all of your business' owners/partners/board members.



41. Has any owner/partner/board member of your business or any immediate family members (parent, sibling, spouse, child) been convicted of or incarcerated for any cannabis related charges?



42. Has any of your business owners/partners/board members served or are currently active in the military?

