



Medical Marijuana FAQs June 2019

Introduction

As a land grant university, Ohio State's mission is to engage in research, teaching, and outreach that improves the lives of Ohio's citizens. The legalization of medical marijuana in Ohio has potential health, economic, and sociocultural implications, and research into medical marijuana's impact in these and other domains falls within the scope of a research university's mission.

This document has been prepared by the Office of Legal Affairs, in partnership with the Office of Research, the Office of Academic Affairs, Human Resources, and the Wexner Medical Center, to address questions that researchers, employees, students, and community members may have about how the legalization of medical marijuana interacts with our current drug policies, and whether and how the university can engage in research in this space while maintaining compliance with both state and federal law.

The FAQs below address how the new medical marijuana law affects researchers; contracts and gifts; students and employees; faculty teaching and consulting; and physicians and medical treatment. Please reach out at any time to the Office of Legal Affairs or the Office of Research with any further questions or for clarifications.

Legal Framework

In June 2016, the State of Ohio legalized the cultivation, processing, dispensing, testing, possession, and consumption of marijuana for limited medical purposes. The State will regulate the industry pursuant to the statutes and regulations for the Ohio Medical Marijuana Control Program (OMMCP). Information on the OMMCP can be found at <https://medicalmarijuana.ohio.gov/default>.

However, while state law has legalized medical marijuana for certain purposes, the use, possession, cultivation, and sale of marijuana remains prohibited by federal criminal law, which still classifies marijuana as a "Schedule I" drug under the Controlled Substances Act (CSA). Federal law sees Schedule I substances as having a high potential for abuse and therefore imposes robust restrictions on their use and possession.

Under current guidelines, the Department of Justice is under instructions to prosecute federal marijuana infractions just as it prosecutes other federal crimes and the Department has revoked

previous guidance that treated marijuana-related crimes more leniently in states with laws that legally recognize medical marijuana use.

Accordingly, Ohio State remains subject to the Controlled Substances Act and other federal laws that do not recognize the legal use of medical marijuana.

FAQs

1. Research

Can I conduct research on or using marijuana plants (or marijuana plant derivatives)?

- Research involving marijuana is not permitted unless the proper legal authorizations are in place. To be eligible, a Principal Investigator must receive a Schedule I registration from the Drug Enforcement Administration and obtain all marijuana plants (or cannabis-derived research material) from the federally-approved location at the University of Mississippi or another federally-approved growing location.
- At this time, university researchers cannot conduct research on marijuana plants or cannabis derivatives grown at an unapproved location, or without first obtaining a Schedule I registration.
- Additional information regarding the University's controlled substances program is available on the website for the Office of Research Compliance:
<http://orc.osu.edu/regulations-policies/controlled-substances/>.

Can I conduct research on or using synthetically derived materials?

- Synthetically derived chemical components of delta-9- tetrahydrocannabinol, such as dronabinol, are not considered part of the federal definition of "marijuana," and, if procured from a legal source, can be used in research.
- Synthetically derived chemicals with similar chemical structures to THC, such as nabilone, are also not considered part of the federal definition of marijuana and, if procured from a legal source, can be used in research.

Can OSU grow or cultivate industrial hemp for research purposes or pilot programs?

- Hemp is a cannabis plant that contains no more than 0.3 percent THC. Federal and state laws regulate the cultivation, production, and use of hemp in research.
- The State of Ohio does not currently have a plan to license and regulate hemp approved by the U.S. Department of Agriculture.
- Further information can be found on the Hemp and Cannabis information pages on the website for the National Conference of State Legislatures:
<http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx>.

Can human subjects receive marijuana through my research?

- A researcher who wants to provide marijuana to a research subject must follow the authorization steps outlined above, in addition to submitting an Investigational New Drug application for approval by the FDA and an Institutional Review Board application for approval by Ohio State. To date, the FDA and DEA have not approved many human subjects clinical trials for cannabis.
- Any external funding agency must also approve the proposed action, and the FDA and DEA will wait for that agency approval.

Can I conduct cannabis research using animals?

- Ohio State researchers wishing to conduct marijuana research with animals must comply with the terms of the federal Controlled Substances Act, follow applicable DEA regulations, and meet any Ohio State policy requirements.
- Ohio State's Policy on Individual Investigator Use of Controlled Substances in Non-Therapeutic Research is available at <http://policies.osu.edu/find-policies-by/category.html#research>.

Can I conduct observational research on the effects of marijuana use or on drug abuse prevention?

- Yes, if this research does not involve bringing marijuana on campus and does not involve University personnel handling marijuana.
- As part of any such research, researchers may not require or encourage initiation or continuation of marijuana use. Ohio State is obligated under the U.S. Drug Free Schools Act to prevent the unlawful possession, use, or distribution of illegal drugs in relation to any University activity, including research.
- Observational research may still be subject to other University requirements, such as Institutional Review Board approval.

Can I conduct research into policies, societal and economic impacts, and law enforcement impacts of medical marijuana?

- Yes. Ohio State researchers wishing to conduct research on policies, societal and economic impacts, law enforcement impacts, and a range of other implications of medical (or non-medical) marijuana do not need to obtain a DEA license as long as they are not engaged in growing, cultivating, possessing, distributing, or using marijuana or any derivative.
- This form of research is subject to the usual University requirements, including IRB approval where appropriate. This category of research includes such topics as education and prevention research; epidemiological research on the prevalence and demographics of marijuana use; research on communication strategies for schools, parents, and other groups; or research on state and local policies related to medical marijuana.
- Researchers should also follow all applicable University policies.

Can Ohio State be a growing, cultivating, or testing location for medical marijuana?

Because of federal restrictions, Ohio State may not, on its own, become a growing, cultivating, or testing location for medical marijuana and at this time is not seeking to become a federally-licensed site for such activities.

2. Agreements/Gifts Related to the Marijuana Industry

Can Ohio State accept a sponsored research agreement from a grower, producer, tester and/or distributor?

- It depends. Federal law prohibits Ohio State from accepting the proceeds of activities that are illegal under federal law, including the growth, production, and distribution of marijuana.
- As long as gift funds are not the product of an activity that would be illegal under federal law, Ohio State may accept gifts for the benefit of marijuana research, and/or from a grower, producer, tester and/or distributor of marijuana.

Can Ohio State accept a gift under the Gift Acceptance Policy for the benefit of marijuana research at Ohio State, or from a grower, producer, tester and/or distributor of marijuana?

- It depends. Federal law prohibits Ohio State from accepting the proceeds of activities that are illegal under federal law, including the growth, production, and distribution of marijuana. As long as the gift funds are not the product of an activity that would be illegal under federal law, Ohio State may accept gifts for the benefit of marijuana research, and/or from a grower, producer, tester and/or distributor of marijuana.
- Ohio State can only accept gifts in accordance with its Gift Acceptance Policy. Gifts for the benefit of marijuana research and/or from growers, producers, testers, or distributors should be considered Complex Gifts under the University's Gift Acceptance Policy and reviewed by the Office of Advancement.
- Ohio State cannot accept any in-kind gifts if such in-kind gift would include marijuana or its derivatives, or was purchased with proceeds from marijuana sales.

Can the OSU Foundation accept a gift or grant under the Gift Acceptance Policy for the benefit of marijuana research at Ohio State, or from a grower, producer, tester, and/or distributor of marijuana?

- It depends. Federal law prohibits Ohio State from accepting the proceeds of activities that are illegal under federal law, including the growth, production, and distribution of marijuana. As long as the gift funds are not the proceeds of an activity that would be illegal under federal law, Ohio State may accept gifts for the benefit of marijuana research, and/or from a grower, producer, tester and/or distributor of marijuana.

The OSU Foundation can only accept gifts in accordance with its Gift Acceptance Policy. Gifts for the benefit of marijuana research and/or from growers, producers, testers, or distributors should be considered Complex Gifts under the foundation Gift

Acceptance Policy and reviewed by the Office of Advancement. OSU Foundation cannot accept any in-kind gifts if such in-kind gift would include marijuana or its derivatives, or was purchased with proceeds from marijuana sales.

3. Students and Employees

Is marijuana allowed on campus, including in the residence halls and offices?

- No. Because marijuana remains restricted under federal law, its possession, even with a properly-obtained medical marijuana registration card, is prohibited in or on all University owned, operated, or leased property, including residence halls or other university housing, offices, university-managed properties and all Wexner Medical Center facilities.
- The residential life handbook policy specifically prohibits the “use, production, distribution, or possession of drugs or controlled substances in violate of federal, state, or municipal laws.” Medical marijuana remains a controlled substance, the possession of which violates federal law.

What if a resident, guest, or staff member living in the residence hall has a medical marijuana registration card?

- Because medical marijuana is still illegal under federal law, the possession, use, storage, and cultivation of marijuana is not allowed on campus even with a medical marijuana registration card.

What if a university employee is under the influence of marijuana while in the workplace, but has a medical marijuana registration card and claims to have used the marijuana off campus?

- Faculty, staff, graduate associates, and student employees remain subject to the University’s Drug Free Workplace Policy, the Alcohol and Other Drugs Policy, and other applicable policies.
- Individuals who are under the influence of marijuana during work hours may be referred to Human Resources for review. <https://hr.osu.edu/wp-content/uploads/policy730.pdf> ; <https://studentlife.osu.edu/pdfs/osu-policy-on-alcohol.pdf>.

4. Faculty Teaching and Consulting

I teach a class where I would like the students to examine a marijuana plant. Is this permissible?

- It depends. To lawfully possess marijuana on campus, the faculty member must hold a Schedule I registration from the DEA and have received the marijuana plant from a federally-approved location. Information regarding the university’s controlled substances program is available here: <http://orc.osu.edu/regulations-policies/controlled-substances/>.
- Additionally, Ohio State’s policy on Alcohol and Other Drugs applies to anyone on campus. <https://studentlife.osu.edu/pdfs/osu-policy-on-alcohol.pdf>. Unless the proper

procedures for possession (described above) are followed, the use of marijuana for teaching activities is not permitted.

Can a faculty member consult for a medical marijuana grower, cultivator, tester, or dispensary?

- Pursuant to the Faculty External Consulting Policy, faculty members are permitted to spend one day each week consulting. A faculty member seeking to consult must follow the requirements of the University's policy and appropriately disclose any external income during the annual Conflicts of Interest disclosure process.
- A faculty member may not use university resources (employees, facilities, lab equipment, etc.) for the benefit of his or her external consulting. If faculty members engage in external consulting in connection with marijuana, they may not bring the substance onto campus unless they hold a Schedule I registration from the DEA and have obtained the marijuana plant or its components from a federally-approved location.

5. Physicians and Medical Treatment at OSU

Can a physician employed by OSU recommend medical marijuana to patients?

- At this time, physicians employed by Ohio State **are not permitted to** apply for a Certificate to Recommend from the State Medical Board of Ohio and therefore may not recommend medical marijuana to patients. These restrictions do not preclude physicians from providing medical opinions and diagnoses as to conditions that may be recognized as qualifiers for marijuana use under state law and, if knowledgeable, a physician can also generally discuss the benefits and risks of medical marijuana use with their patients.
- The University will continue to review federal and state regulations and classification of marijuana for reconsideration of the certification process by the state medical board for its physicians.

Can affiliated but non-OSU-employed physicians provide recommendations to their patients when not practicing at OSU?

- OSU does not dictate the practice of non-employed physicians when not practicing at Ohio State. However, physicians (or faculty members) cannot create a conflict of interest in violation of Ohio State policy. Ohio State employed or affiliated physicians may not engage in any external work (e.g., medical practice, consultation, or research) that may result in a conflict of interest, unless prior authorization has been obtained. Any recommendations made by an Ohio State affiliated physician when not practicing at Ohio State must not result in a conflict of interest at Ohio State, and physicians must abide by all applicable anti-kickback statutes and regulations.
- Ohio State employed and affiliated physicians and all medical staff members and credentialed providers are bound by the Bylaws of the Medical Staff of The Ohio State University Hospitals and James Cancer Hospital. If providing a recommendation for

cannabis/medical marijuana to a patient when not practicing at Ohio State would cause a physician to violate these bylaws, he or she should not provide such recommendation.¹

Can a patient bring medical marijuana into the Wexner Medical Center facilities?

- Because marijuana remains restricted under federal law, its possession and use is prohibited in or on all University owned, operated, or leased property including all Wexner Medical Center facilities.

¹ <https://trustees.osu.edu/assets/files/RuleBook/UniversityHospitalMedicalStaffBylaws.pdf>
<https://trustees.osu.edu/assets/files/RuleBook/JamesMedicalStaffBylaws.pdf>