

# District Agricultural Associations

## Cannabis Event Guidelines



Version Date

October 17, 2017

# Policy Development & Contracting Process

## Policy Development

1. Before contracting with an event organizer to hold a cannabis event, it is recommended that a DAA Board of Directors adopt a formal policy regarding these events. The board should deliberate during an open, public meeting on whether or not these events should be allowed to occur on fairgrounds.
2. Recommended factors, at a minimum, that a Board should consider:
  - a. Community values and standards in regards to cannabis as reflected by local city and county cannabis ordinances
  - b. Fairgrounds' proximity to schools, youth recreation centers, parks, and other areas minors congregate
  - c. CDFA Cannabis Event Guidelines
  - d. Potential federal enforcement on cannabis use
  - e. Relationship with California Highway Patrol and/or local law enforcement
3. If the Board concludes that it will allow cannabis events to occur on fairgrounds, the policy should state:
  - a. Whether medical and/or adult use cannabis events will be allowed, and which of these events will be prohibited and the basis for the prohibition
  - b. Whether medical use will be allowed at these events in designated areas
  - c. Whether sales and adult use will be allowed on the fairgrounds with a state temporary event license issued pursuant to Business and Professions Code section 26200(e)
  - d. Whether the DAA's Chief Executive Officer may contract without prior Board approval or whether the Board requires pre-contracting approval
4. The CDFA Fairs & Expositions Branch and Legal Office are available for policy review to ensure that it is in full compliance with the law.

## Contracting Process

1. Once the Board has adopted its formal cannabis policy, the CDFA Legal Office can assist the DAA in drafting event terms and conditions for incorporation into standard rental agreements.
2. Notify any interested event organizer of the DAA's cannabis event policy before contract negotiations begin.
3. It is imperative that you understand the type and scope of event the organizer is requesting to hold at the fairgrounds. The organizer should provide you with information regarding the activities that will be occurring during the cannabis event. Questions to ask and information to gather from the event organizer before contracting is contained in the following "Cannabis Event Pre-Agreement Considerations." The activities held during the cannabis event will ultimately determine the terms and conditions required in the event contract. It is recommended that a DAA research the organizer to verify past history of similar events.
4. At the DAA's request, the CDFA Legal Office can review the contract prior to execution.

## Pre-Agreement Considerations

The following are some suggested considerations and information to gather before contracting with a cannabis event organizer. The information ultimately determines the terms and conditions required in the event contract.

1. Is the proposed event for the purpose of adult use or medical interest?
2. These events legally impose age restrictions and may require proof of physician approval for use if a medical event. How will the event organizer verify and enforce these restrictions?
3. What are the proposed event's activities? The legal activities that may be conducted on fairgrounds include:
  - Medical cannabis use in designated medical use areas only
  - Sales and adult use on fairgrounds **only** with a state temporary event license pursuant to Business and Professions Code section 26200(e).
  - Cannabis accessory sales
  - Cannabis cultivation products
  - Hemp products
  - Informational booths
4. If the event will have a designated medical use area, where will it be located to prevent others from receiving a "contact high" and otherwise conform to the law? How will entrance to the area be monitored and secured?
5. What is the event organizer's security plan? Will the DAA or the event organizer be providing security services? Will law enforcement be required to be present during the event?
6. What is the expected attendance of the event and the basis for the estimate?

## General Recommendations

Below are some suggestions that a DAA Board of Directors may wish to include in their cannabis event policies.

### A. Adult Use Cannabis Events

Attendees must be 21 years or older. Adult use and sales may occur on the fairgrounds only with a state temporary event license pursuant to Business and Professions Code section 26200(e).

### B. Medical Cannabis Events

1. Attendees to a medical cannabis event without cannabis sales (i.e. trade show) must be at least 18 years old and have a medical marijuana identification card or physician's recommendation letter. Medical use should only occur in designated Medical Use Areas (see section "C" below).
2. Cannabis may only be sold pursuant to a state temporary event license, pursuant to Business and Professions Code section 26200(e). However, under this event license, all attendees must be 21 years or older.
3. The event organizer, prior to and during the event, should provide adequate notice of prohibitions to attendees, for example, through advertising and signage at the place and time of the ticket purchase, all entrances to the event, and throughout the event area.
4. Notice should include:

*Regardless of state law, marijuana is a Schedule I controlled substance under federal law. Possessing or participating in the manufacturing, distributing, dispensing of marijuana is a federal violation and may be subject to federal enforcement.*

### C. Designated Medical Use Areas

1. Medical Use Areas should provide a safe, secure, and isolated environment for the medical use of cannabis. It is strongly recommended that access to these areas are limited to individuals 21 years or older with a medical marijuana identification card or physician recommendation letter.
2. Medical Use Areas cannot be located within 1,000 feet of a school, day care center, youth center or recreational area where minors congregate. Cannabis smoking or use within this distance is illegal.
3. Patients should be prohibited from sharing or distributing their cannabis or cannabis products for health and safety purposes.
4. Prior to contract execution, the organizer should provide the District Agricultural Association with the proposed location of all Medical Use Areas on a map detailing the event layout.
5. It is recommended that the event organizer provide attendees who intend to consume cannabis in the Medical Use Area with a wristband that cannot be easily removed and re-used.

6. All individuals requesting a wristband should meet the following requirements:
  - a. Show a photo ID to verify he/she is at least 18 years of age; 21 years if the Board decides to adopt a more cautious medical use policy
  - b. Present a physician recommendation or a valid medical marijuana identification card
  - c. Agree not to sell, donate, or share his/her cannabis or cannabis product with others
  - d. Medicate safely and responsibly
7. It should be the organizer's responsibility to provide an attendant at the designated Medical Use Areas at all times to ensure only those attendees with a wristband may enter.
8. Security should be provided at each entrance and exit of the event and the Medical Use Area at all times during the event.
9. The organizer should be required to conduct a clean-up to ensure that no cannabis or its edible products are left on the fairgrounds. Because there is significant risk that pets and children will consume cannabis or its edible products found around the fairgrounds after the event, DAA staff should walk the event area to ensure proper clean up.

**D. Sales, Samples and Donations by Event Organizers and Exhibitors**

1. Retailer and microbusiness licenses are geographically bound, and do not authorize sellers to conduct business outside of the location indicated on their license.
2. Cannabis sales are allowed only by event organizers and exhibitors holding a state temporary event license pursuant to Business and Professions Code section 26200(e). Alcohol sales are prohibited during an event where cannabis sales and use are occurring under this temporary event license. Samples and donations by licensed cannabis businesses are prohibited.

## **Cannabis Event Insurance Requirements**

1. All Cannabis Use & Non-Use events are considered a “Hazardous Activity” for insurance purposes.
2. All Cannabis Use & Non-Use events require \$2,000,000.00 of coverage per occurrence.
3. All contracts and insurance policies are required to be reviewed and approved by California Fair Services Authority (CFSA) prior to the event.
4. Please consult with CFSA or Department of General Services-Office of Risk and Insurance Management prior to signing an event contract to ensure insurance requirements are adhered to.

# General Cannabis Facts

## Federal Prohibition & Enforcement

The federal Controlled Substances Act (CSA) prohibits, among other things, manufacturing, distributing, dispensing or possessing certain controlled substances, including marijuana and marijuana-based preparations. 21 U.S.C. §§ 812, 841(a)(1), 844(a). Regardless of individual state laws that have legalized activities involving cannabis, marijuana and its psychoactive component remain Schedule I controlled substances that are subject to the CSA's prohibitions. 21 C.F.R. § 1308.11. This is the most serious classification of prohibited substances. Enforcement is carried out by the U.S. Department of Justice.

Through a federal budget act, first passed by Congress in 2015 and extended through 2017, the DOJ is prohibited from using federal funds to take enforcement actions against medical cannabis operations and medical cannabis users under a State regulated program. Note that this applies *only* to medical cannabis, not adult use.

## State Cannabis Laws in General

California laws that legalized medical cannabis and adult use have allowed localities to retain authority over whether cultivation and other cannabis operations and activities may or may not occur within their jurisdiction. Retailers and microbusinesses are geographically bound to the location indicated on their license. However, cannabis can only be sold by a licensed cannabis business at a county fair or DAA event under certain conditions and with a state temporary event license. See Business and Professions Code section 26200(e).

It is the intent of California's cannabis laws to protect minors from accessing cannabis and to prohibit the marketing of cannabis products to children. Cannabis businesses and use are banned from being located within close proximity of schools, day care centers, youth centers, or other recreational area where minors congregate. It is illegal to smoke or use cannabis within 1,000 feet of a school or youth recreational area while children are present.

Recreational use of cannabis is prohibited for individuals less than 21 years of age. In addition, medical use requires a medical marijuana identification card or physician's letter recommending use.

## Public Smoking

Smoking cannabis for medical purposes carries the same restrictions as state and local tobacco use restrictions. Smoking for recreational purposes is strictly prohibited in public.

## Common Questions & Answers

### **What is the difference between cannabis and hemp events?**

A cannabis event would involve any activity or promotion having to do with the plant cannabis, its products, or accessories. Cannabis products are any cannabis plant material that has been transformed into a concentrate, edibles, or topical products containing marijuana. Cannabis accessories are any equipment, products, or materials that are used in connection with the cultivation, production, or use of marijuana. Cannabis events are categorized as either “medical” or “adult use” (i.e. recreational) depending on the purpose of the event and the intended audience. Medical and adult use events have specific, corresponding legal requirements and restrictions.

A hemp event would involve promotion of hemp products through activities, education, or sales. Hemp is a fiber that derives from parts of the cannabis plant that has low levels of tetrahydrocannabinol or “THC” (the chemical responsible for the psychological effects of marijuana use). Examples of hemp products include: stout fabric, rope, fiberboard, and paper.

### **Does the recent legalization of cannabis impact a DAA board’s authority in adopting policies for those events?**

No. In fact, the Food and Agricultural Code requires DAAs to develop written policies and procedures for contracting that are developed and maintained by the DAAs’ Board of Directors. This requirement applies to “revenue generating contracts” which would include cannabis and hemp events. In addition, the Department strongly recommends that due to the controversial nature of cannabis and the local government’s authority over cannabis activities, DAA boards should adopt a formal cannabis event policy before allowing cannabis events to take place on their fairgrounds. Policy deliberations must take place during an open, public meeting and, once approved, the policy should be submitted to the Department.

### **How does the fact that cannabis remains a prohibited substance under federal law play a part in the DAA’s decision to hold cannabis events? What are the legal ramifications from the Federal Government?**

The federal Controlled Substances Act (CSA) prohibits manufacturing, distributing, dispensing or possessing certain controlled substances, including marijuana and marijuana-based preparations. 21 U.S.C. §§ 812, 841(a)(1), 844(a). Regardless of individual state laws that legalized activities involving marijuana, marijuana and its psychoactive component, THC, remain illegal Schedule I controlled substances under federal law and are subject to the CSA’s prohibitions. 21 U.S.C. § 812, 21 C.F.R. § 1308.11(d). Schedule I is the most serious classification of prohibited substances. Enforcement is carried out by the U.S. Department of Justice (DOJ).

Through a federal budget act, first passed by Congress in 2015 and extended through 2017, the DOJ is prohibited from using federal funds to take enforcement actions against medical cannabis operations and medical cannabis users under a State regulated program. Note that this applies *only* to medical cannabis, not adult use.

### **Can a cannabis event include exhibiting cannabis plants?**

If an event organizer wishes to exhibit cannabis plants, it is strongly recommended that the DAA contact the CDFA Legal Office for guidance. Currently, cannabis laws are still in flux, and the legal analysis of allowing such an exhibit is very fact-specific.



**If a medical use area is provided, what is the responsibility of the board to its staff and the security working the event?**

California prohibitions for tobacco smoking apply to cannabis smoking. However, due to the risk of exposing others to second-hand cannabis smoke and a contact high, the tobacco smoking area should not also be the designated medical use area. These should be two separate areas to protect non-cannabis users. Additionally, requirements should be put in place to avoid exposing DAA staff and other non-users to second-hand cannabis smoke. Therefore, it is critical that a medical use area is sited at a sufficient distance from all other activities to ensure non-users remain unaffected.

**How would local ordinances affect the ability to hold an event within city limits? What if production is banned in my county?**

California laws that regulate medical cannabis and adult use have allowed localities to retain authority over whether cultivation and other cannabis operations and activities may or may not occur within their jurisdiction. Generally, these county and/or city cannabis ordinances do not apply to state fairgrounds.

Note that state temporary event licenses, which allow for cannabis sales to and consumption by persons 21 years of age on fairgrounds, shall only be issued in local jurisdictions that authorize such events. See Business and Professions Code section 26200 (e).

County and/or city ordinances reflect the community's view of cannabis, and it is recommended that a board consider whether a cannabis event is consistent with that local view. Therefore, even if county and/or city cannabis ordinances do not apply to state fairgrounds, a board should consider local cannabis ordinances while developing a formal cannabis event policy.

**Can a CEO or board member(s) be arrested for allowing cannabis events to occur on fairgrounds?**

Under Government Code section 820.4, public employees are not liable for an act or omission when exercising due care in the execution of any law. This immunity extends to the public entity itself. Therefore, if a CEO and a board allow cannabis events to be held on fairgrounds after taking necessary steps to ensure that the event and its activities are in full compliance with state law, there should be no cause for concern.

The Department strongly recommends that the board adopt cannabis policies before allowing events to occur on their fairgrounds. Policies may be provided to the Department for review to ensure they are in accordance with the law.

Even after a policy is in place, a DAA must be fully aware of the activities the organizer proposes to conduct at the event. To assist DAAs considering these events, the Department has included "Pre-Agreement Considerations" with these Guidelines. It includes information to gather from the organizer before contracting for a cannabis event. The information will ultimately determine the terms and conditions required in the event contract in order to legally protect a DAA. In addition, the Legal Office is available to assist with drafting facility use agreements specifically tailored for cannabis events prior to execution.

### **What if local law enforcement opposes cannabis events?**

When adopting its formal cannabis policy at an open, public meeting, the DAA should invite local law enforcement participation. It is strongly recommended that a DAA allowing a cannabis event to occur on its fairgrounds require the event organizer to independently contract with local law enforcement for its services during the event.

### **Can cannabis be sold, donated or sampled on DAA property?**

Cannabis and its products may be sold only with a state temporary event license pursuant to Business and Professions Code section 26200(e). All attendees to these events shall be 21 years and older. Temporary event licenses shall only be issued in local jurisdictions that authorize such events.

Cannabis samples and donations by licensed cannabis businesses are prohibited.

### **Can cannabis be consumed at the cannabis event?**

Yes. For medical events without cannabis sales (i.e. trade show), the event organizer should establish a designated medical use area that meets DAA approval based on legal requirements and policy. The legal age limit for medical use is 18 years and older. However, a more cautious approach would be to adopt a policy setting the age requirement at 21 years and older for entry into medical use areas. The cannabis products must be the patient's own—they cannot be provided by the event organizer or any of its vendors.

If both cannabis sales and consumption are occurring with a state temporary event license issued pursuant to Business and Professions Code section 26200(e), all attendees must be 21 years of age and older.

It is strongly recommended that if cannabis use will be allowed, the event organizer be required to conduct a thorough clean-up of the fairgrounds to ensure no cannabis or product has been left behind. There have been reported cases of pets consuming cannabis product due to inadequate clean-up after cannabis events. This risk not only applies to pets, but also children who may pick up and consume cannabis edibles that appear to be candy or other food. Because fairgrounds typically host family-oriented events, a thorough clean-up should be required by the event organizer and a sweep of the area conducted by DAA staff.

### **Can alcohol be served at a cannabis event?**

It is not recommended that a DAA allow a cannabis event organizer to also sell alcohol. The intent of the law is to keep alcohol consumption and cannabis use separate. For instance, local jurisdictions may authorize licensed retailers to allow cannabis smoking and use on their private property only if no alcohol is served on the premises. Additionally, retailers are prohibited from holding both a retailer/microbusiness license and liquor license. DAAs should prohibit alcohol from being served at a cannabis event or, at a bare minimum, within designated medical use areas.

If the organizer or exhibitors are selling cannabis products at an event pursuant to a state temporary event license, the sale or consumption of alcohol or tobacco is prohibited on the premises.

### **Are there age restrictions for cannabis events?**

Medical cannabis events without cannabis sales are limited to individuals 18 years or older with a valid medical marijuana identification card or physician's letter recommending the use of cannabis. Adult use events are limited to individuals 21 years or older.

If cannabis sales and on-site consumption will be occurring at the event under a state temporary event license, all attendees must be 21 years or older.

It is the intent of state cannabis laws to protect minors from accessing cannabis and to prohibit the marketing of cannabis and cannabis products to minors. Cannabis businesses are banned from being located within close proximity of schools, youth centers, or other recreational area where minors congregate. It is illegal to smoke or use cannabis within 1,000 feet of a school or youth recreational area while children are present. As this applies to fairgrounds, the Department strongly recommends that DAAs located within 1,000 feet of a school or youth recreation center acknowledge and account for the protection of minors in its cannabis event policy. Additionally, the DAA should not allow cannabis events to be held on fairgrounds simultaneously with other events that include minor attendees. Minors cannot be present on fairgrounds while a cannabis event is occurring.

### **What about medical cannabis use at a regular fair event or other non-cannabis event?**

Cannabis smoking is prohibited wherever tobacco smoking is prohibited. If a DAA already has a non-smoking policy in place, this policy should also encompass cannabis smoking.

Medical cannabis use areas cannot be designated during the DAA's annual fair event. It is illegal to use cannabis within 1,000 feet of a youth recreational area hosting activities for minors, including amusement park facilities. Therefore, the fairgrounds itself, under the law, would be considered a youth recreational center during the fair event, and a DAA cannot establish designated medical use areas.

If a non-cannabis themed event is held on the fairgrounds that has an age restriction of 18 years and older, then the DAA may designate a medical use area. If alcohol is being served at the event, it is strongly recommended that the event organizer does not provide for a medical cannabis use area.

### **Can law enforcement confiscate what is on the premises?**

Federal or local law enforcement does not have authority to seize state property, and therefore cannot confiscate DAA property. However, privately owned personal property, belonging to either the event organizer or attendees, that is involved in unlawful activity may be confiscated by law enforcement. This applies to activities occurring on the fairgrounds.