

# **Recreational Cannabis is Now Legal in Connecticut: Action Steps for Colleges and Universities**



Presented by:  
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# Colleges, Universities and Independent Schools Practice

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by  Zachary Zeid

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# Public Act 21-1



## Connecticut's New Recreational Cannabis Law

# Legalization of Cannabis Under State not Federal Law

- In June of 2021, Governor Lamont signed Senate Bill 1201 making Connecticut the 19<sup>th</sup> state to legalize recreational cannabis for adults 21 years or older.
- **Recreational cannabis use continues to be illegal under federal law and classified as a Schedule I Controlled Substance.**





# CT's New Cannabis Bill and Employment Protections

- **The goal of the bill is to decriminalize and destigmatize the use of cannabis by adults in the state.**
  - The bill legalized recreational use by adults in the state as of July 1, 2021.
  - The bill is approximately 300 pages long and includes amendments to numerous Connecticut laws.
  - The bill creates employment protections for certain recreational cannabis users who use cannabis during non-work time and/or pre-employment which become effective next summer on July 1, 2022.
    - Cannot refuse to hire someone because they test positive on a pre-employment drug test or because they used cannabis recreationally prior to applying for employment.
    - Cannot discipline or fire someone because they used cannabis recreationally off duty unless they are warned that such conduct is prohibited in advance by a written policy.
- **The bill specifically exempts Colleges and Universities from having to provide these statutory protections to their employees.**

- **Colleges and Universities (as educational institutions) may continue to prohibit the use and possession of cannabis (even medical cannabis) by their staff and students on their campuses and during school sponsored events.**
- **Colleges and Universities may continue to maintain drug free workplaces for their employees and may continue to prohibit their employees from being under the influence of cannabis at work.**
- **Colleges and Universities may also generally continue to prohibit employees from engaging in the recreational use of cannabis while off duty and/or off campus if the employer so chooses.**
- **Even though not required under the Cannabis Law, you should still take various action steps to ensure that your employees, students, and vendors understand your school's stance on cannabis use and are aware of consequences for non-compliance.**

# Drug Free Schools and Communities Act (the “DFSCA”)

- DFSCA requires colleges and universities (as a condition of receiving federal funds) to certify that they have adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees both on the institution's premises and as part of any school activities and distributed it in writing.
- DFSCA requires that the institution conduct a biennial review of its program and as part of that examine drug and alcohol violations, fatalities, and sanctions imposed.
- **Bottom Line**: allowing cannabis use could lead to loss of federal funding for financial aid etc.

## Drug Free Schools and Communities Act



## Drug-Free Workplace Act of 1988

Hearing before a subcommittee of the Committee on  
Government Operations, House of Representatives,  
One Hundredth Congress, second session, on H.R.  
4719 ... H.R. 4467 ... June 25, 1988

United States, Congress, House, Committee on  
Government Operations, Legislation and National  
Security Subcommittee

- This federal law requires that any employer receiving federal funding (including a college or university receiving grant money) must certify that it will maintain a drug-free workplace.
- Among other things, the act requires that a policy be published notifying employees that the unlawful manufacture, distribution, possession, or use of controlled substances is prohibited in the workplace.
- It also requires that certain actions be taken if this policy is broken and certain notification obligations.
- Again, cannabis remains illegal under federal law so this act could be violated if cannabis use permitted.

- Determine your stance on off-duty cannabis use.
  
- Consider your drug testing policies and procedures and determine whether any changes should be made.
  - Revise your Drug Free Workplace Policy to include references to recreational cannabis use (not just medical) and clarify stance on on-duty and off duty use.
  
  - Consider circulating a memo now re: recreational cannabis use and how it continues to be prohibited at work.
  
  - Reference obligations under federal laws and consequences for losing funding and aid.

# Actions to Take Now for Your Employees

- Take a look at your pre-employment procedures and adjust if necessary.
- Train your managers in recognizing signs of impairment at work and what your policies require.
  - Signs of impairment include but are not limited to: changes in an employee’s speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, negligence or carelessness in operating equipment or machinery, disregard of the safety of others or involvement in an accident, disruption or carelessness.

# What to Include in a Drug Free Workplace Policy for Employees

- A comprehensive policy should:
  - Explain why the school is implementing a drug-free workplace policy and its commitment to establishing a healthy, safe and productive workplace.
  - Describe the rules and expectations regarding drug and alcohol use and testing including at work, on-call, and off duty. Be specific in describing what is prohibited, including where and when, and ensure the policy also addresses recreational and medical cannabis, illicit drugs, prescription and over-the-counter medications and alcohol.
  - Include everything required under the Drug Free Schools and Communities Act.
  - Provide guidance on signs of impairment caused by drug or alcohol use for managers and employees.

# What to Include in a Drug Free Workplace Policy for Employees

- Outline the types of drug and alcohol testing the employer may require and the corresponding testing procedures. (Note: employers remain subject to Connecticut's drug testing statute, Conn. Gen. Stat. 31-51t through 31-51aa.)
- Provide information about assistance for employees struggling with substance abuse.
- Identify the appropriate person for employees to contact with questions about the policy.
- Describe the consequences for policy violations, including potential discipline that may be imposed if you prohibit off-duty cannabis use.



- Distribute memo or email to all students making stance on recreational cannabis use clear (if you haven't already). Don't just assume that students understand that it continues to be prohibited (especially those over 21).
- Revise student drug and alcohol policies including those required by the DFSCA to explicitly mention recreational cannabis use and prohibitions regarding same.
- Address and revise disciplinary consequences for cannabis use and possession. (consider whether you need to revise criminal charge information in policies now that recreational use legal in the state)
- Provide additional education on cannabis use and the effects of same.
- Provide additional training and support to those students, faculty, etc. in a position to recognize a student struggling with cannabis and other drug and alcohol use and abuse and how to recognize signs of impairment.
- Consider and address additional safety issues posed by an increase of cannabis use and access (even notwithstanding a University's prohibition).

# Action Steps for Vendors, Suppliers and Contractors

- Determine position and expectations regarding on duty and off duty cannabis use with vendors and contractors and maintaining a drug free workplace and school.
- Discuss position and expectations regarding on duty and off duty cannabis use with all vendors and contractors and address same in contracts with them.
- Recognize the safety risks associated with a vendor or contractor being under the influence of cannabis at work.
- Train those interacting with contractors and vendors to recognize signs of impairment.
- Enforce violations of the rules and obligations you set with vendors and contractors.



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