



February 4, 2022

RE: Social Equity Definition and Programming

The Cannabis Control Division (the “division”) was created via the Cannabis Regulation Act (the “CRA”) and has been tasked with setting up the adult-use cannabis market in New Mexico, ensuring the integrity of the existing medical cannabis program and protecting public health and safety of New Mexicans. Part of this mandate requires the division to create procedures that “promote and encourage racial, ethnic, gender and geographic diversity and New Mexico residency among license applicants, licensees and cannabis industry employees.” 26-2C-3(B)(8) NMSA 1978. In addition to the procedures required to be created, the division must also promulgate “rules for a certification process to identify cannabis products for consumers from integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities.” 26-2C-3(B)(9) NMSA 1978.

The CRA also created the Cannabis Regulatory Advisory Committee (the “committee”) to advise the division on development of rules, including “best practices and the promotion of economic and cultural diversity in licensing and employment opportunities.” 26-2C-2(G) NMSA 1978.

As part of their advisory role the committee was tasked with providing a recommended definition for a social equity applicant and also provide recommendations for how the division should implement procedures to promote and encourage diversity of social equity cannabis applicants, licensees and employees. As part of their advisory role, the committee created a subcommittee, specifically tasked with creating the social equity definition and recommended processes. The subcommittee then collected public input from around the state through a survey commissioned by Drug Policy Action Fund of New Mexico and Weedmaps that collected responses from 600 registered voters. In addition, the committee invited responses to a “Social and Economic Equity” survey, which received more than 500 responses and invited public comment on their November 4th meeting. Lastly, the committee contracted with Tellez-Humble LLC to gather detailed feedback from community stakeholders through focus groups and one-on-one interviews.

Through this process the committee developed the following recommendations:

1. Create a clear definition of “equity applicant” that provides opportunities for New Mexicans who have been hurt by criminalization. The public asked for a definition that includes specific indicators of equity, such as race, gender, and income, while being broad enough to include New Mexicans harmed by the war on drugs in their youth.



2. “Take into account that participants [of an equity program] may be interested in different types of involvement with the cannabis industry beyond ownership and design benefits to address these different needs.”
3. Prioritize equity and adequately fund the programs: Without a funding source in the CRA, people are pessimistic about New Mexico’s chances to achieve equity in the industry. Funding should be used to assist applicants navigate the complexity of the industry and the significant barriers businesses face and to provide access to seed capital, support culturally-competent technical assistance programs, and develop state-funded incubator and cooperative models.
4. Assess the impact of licensing rules and equity program on rural communities. Rural communities have unique needs and require provisions to support small producers and growers, or they may be “overrun” by large producers.
5. Recognize Federal regulations create complexity. Until the federal status of cannabis changes, some individuals and communities will face legal uncertainty, limiting participation.
6. Assess how existing rules create barriers to entry and favor larger out-of-state producers. The public is excited about the potential new industry but fear New Mexicans, particularly those from communities harmed by criminalization, are already a step behind.
7. Ensure regulations protect workers. Most people involved in the industry will be workers, not owners. Promote equity by requiring businesses—particularly large producers—to commit to worker protections.
8. Assess the impact of the cannabis industry on groundwater. The public sees water usage as an equity issue.

DEFINITION – SOCIAL EQUITY

Considering the recommendations received from the committee, the division has decided to adopt the following criteria to identify social equity applicants, licensees and employees.

Social and economic equity applicants, licensees and employees includes individuals who have been disproportionately impacted by the War on Drugs and other underrepresented groups including low-income, Indian Nations, Tribes, Pueblos, Acequia Parciante and Land Grant-mercedes, and distressed farmers.

To determine whether an individual can be classified as having social and economic equity status the individual must represent at least two of the following:

- Enrolled member of an Indian Nation, Tribe or Pueblo, Acequia Parciante in good standing, or qualified Land Grant-mercedes.
- Have a household income at or below the average median income (AMI) in NM for 2019



- Have been cited for, arrested for or convicted of a felony as defined in NM Stat 29-3A-5(G) (including as a juvenile) or was subject to civil asset forfeiture related to a marijuana investigation. These are offenses currently available for expungement under state law.
- Black persons having origins in any of the Black African racial groups; Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; Native American or Alaskan native persons having origins in any of the original peoples of North America; or Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.
- Distressed Farmer:
 - A New Mexico state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that meets the small farm classification developed by the Economic Research Service of the United States Department of Agriculture, has filed a schedule F with farm receipts for the last three years, qualifies for an agriculture assessment and meets other qualifications defined in regulation by the board to demonstrate that they operate a farm operation as defined in section three hundred one of the agriculture and markets law and has been disproportionately impacted, including but not limited to incurring operating losses, by low commodity prices and faces the loss of farmland through development or suburban sprawl and meets any other qualifications as defined in regulation by board; or
 - A New Mexico state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that is a small farm operator and a member of a group that has been historically underrepresented in farm ownership and meets any other qualifications as defined in regulation by CCD.
- Transgender or gender non-conforming gender identity

Extra priority shall be given to applications that demonstrate that an applicant meets the criteria of at least one of the following in addition to the criteria above:

- Person with a disability or service-disabled veteran.
- Are a cisgender woman.
- Identify as a member of the lesbian, gay or bisexual community.
- Are a person over the age of 55.
- Have a parent, sibling, grandchild or child who was cited for, arrested for or convicted of a felony as defined in NM Stat 29-3A-5(G) (including as a juvenile). These are offenses currently available for expungement under state law.
- Live in or be a member of a NM designated traditional historic community for at least the past 5 years.
- Lost housing in New Mexico after 2008 through eviction, foreclosure or subsidy cancellation.
- Live in a New Mexico census tract for the past 5 years where at least 17% of the households have incomes at or below the federal poverty level.



- Have lost a job or housing as a direct result of being a registered New Mexico medical cannabis patient or have violated probation or parole as a direct result of being a registered NM medical cannabis patient.
- Experienced suspension or expulsion from a learning institution as a youth for a drug-related offense.
- Have primary residence in the county where the cannabis business will be located.

To determine whether a company can be classified as having social equity status, the company must be controlled by and with majority ownership of people who qualify as individuals with a social equity classification under the criteria listed above.

DIVISION SOCIAL EQUITY PROGRAMMING

Once an applicant, licensee or employee has been identified as an individual with the social equity status the division will work with these individuals to be included in the following programming, as applicable to the individual's position within the industry and individual needs.

- The division has a designated social equity position responsible for overseeing the social and economic equity initiatives of the division, helping licensees develop the required equity plans and ensuring licensees are complying with their equity plans.
 - This position will assist social equity applicants to develop business structure, operations, employment practices that demonstrate a commitment to justice and equality.
 - This position will also create a community equity advisory group, including membership from those consulted with during the listening sessions.
 - This position will work to partner with outside organizations to provide services that the division recognizes as a needed but cannot provide itself.
 - The responsibilities and activities of the person in this position will change as needed according to the needs of social equity applicants, licensees and employees throughout the maturation of the adult-use cannabis market.
- Create a navigator program in the CCD to assist those applying for a license. A navigator would be assigned to an applicant to provide information and assistance throughout the process from application to licensing to compliance.
- Review whether to waive or significantly reduce licensing fees for equity applicants. Licensing fees that can be changed with the authority of the division are the following: couriers, testing laboratories, cannabis producer microbusiness, integrated cannabis microbusiness license and cannabis consumption areas.
- Create a dedicated staff review of licensing applications by equity program participants.
- Support the NMFA social equity fund for start-up capital costs.



NMRLD

**NEW MEXICO
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STATE OF NEW MEXICO

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- Continue to develop a partnership between the division and the Department of Higher Education to build out the cannabis training and education program and identify ways to best support students of this program.
- Identify ways to incentivize non-equity licensees to hire individuals from impacted communities or formally incarcerated individuals.
- Identify ways to incentivize non-equity licensees to incubate or provide technical assistance to an equity applicant or licensee or by investing directly in communities harmed by cannabis prohibition through job training and placement, incubation, and technical assistance.
- Regularly assess the program's effectiveness and impact and adjust accordingly.