

## FREQUENTLY ASKED QUESTIONS CONCERNING CANNABIS (MARIJUANA) RESEARCH AND OTHER CANNABIS-RELATED ACTIVITIES AT UCLA

April 2019 – originally posted

*July 2020 – updates*

*December 2021 - update*

The following questions and answers address some issues frequently encountered by UCLA faculty, staff, trainees, and students interested in conducting research and engaging in other activities involving marijuana and industrial hemp. It is not an exhaustive list of the issues surrounding such activities. The final page of this document provides links to additional guidance and contact information.

Marijuana comes from the *Cannabis sativa* L. plant. Due to the Schedule I classification of marijuana, federal law prohibits most possession, distribution, and use of marijuana, defined in the federal Controlled Substances Act. There are limited exceptions to the prohibitions on possession, distribution, and use of marijuana, including exceptions for research under special conditions require compliance with federal controls and other regulatory requirements.

Hemp (also known as industrial hemp) is also derived from the *Cannabis sativa* L. plant. With the passage of the 2018 Farm Bill, however, hemp is defined as the *Cannabis sativa* L. plant and any part of that plant that has a delta-9 tetrahydrocannabinol (THC) (the primary psychoactive component of the *Cannabis sativa* L. plant) of no more than 0.3% on a dry weight basis) is no longer governed by the Controlled Substance Act. Thus, anything that falls within the foregoing definition of hemp is no longer a controlled substance, and the Controlled Substances Act's requirements no longer apply to such substances. Cultivation of hemp, however, is still subject to other federal and state regulations.

The legal landscape in this area is developing rapidly, as is University of California's policy. Individuals interested in participating in activities involving marijuana should consult further before initiating projects, or soliciting or accepting any support, to ensure compliance with all applicable federal laws and policies.

For the purposes of these FAQs, the term marijuana will be used to refer to the plant *Cannabis sativa* L. or any part of that plant that contains more than 0.3% THC. Hemp will be used to refer to the plant *Cannabis sativa* L. or any part of that plant that contains **no more than 0.3% THC**.

### **1. Has the University of California policy on UC research and other activities involving the cultivation, distribution, possession, or use of marijuana changed since the passage of Proposition 64? *Updated July 2020***

With the exception of hemp and hemp derivatives, federal law still classifies marijuana as a Schedule I controlled substance. Most cultivation, distribution, possession, or use of marijuana remains illegal under federal law, and therefore is not allowed in UCLA facilities, research, and other activities except under those circumstances explained below.

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As a recipient of federal funding, UCLA is obligated to comply with various laws and regulations including the Safe and Drug-Free Schools and Communities Act and the Drug-Free Workplace Act that require that UCLA adhere to policies that prohibit the manufacture, distribution, dispensing, possession, or use of any illicit controlled substance at UCLA. These policies apply whether or not the activity is conducted on the UCLA campus or property.

### **2. Is any research involving the cultivation, distribution, possession, or use of marijuana allowable under federal law?**

YES, under certain conditions. Research involving the possession and use of marijuana by researchers is allowable *if* the researcher has obtained a federal Drug Enforcement Administration (DEA) Schedule I registration and follows all applicable DEA regulations and guidelines (as well as applicable regulations of the Federal Food and Drug Administration (FDA)). The approval process may take as long as a year. DEA registration must be completed before research can begin. In addition, research involving human participants must be approved by the UCLA Institutional Review Board (IRB) and research involving animals must be approved by the UCLA Animal Research Committee (ARC). Any research project in California involving the administration/use of a Schedule I or Schedule II Controlled Substance by study participants must also be approved by the Research Advisory Panel of California (RAPC) in the California Attorney General's Office. Additional information about acquiring appropriate federal or state regulatory approvals for conducting research with a controlled substance, including DEA registration requirements, may be obtained from Alyssa Leiva, the UCLA Controlled Substance Program Administrator, Office of Environmental Health and Safety.

### **3. What about research focusing on marijuana extracts, including purified cannabidiol (CBD) and tetrahydrocannabinol (THC) derived from marijuana? *Updated July 2020***

As defined in the federal Controlled Substances Act (CSA), the term marijuana means “all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.” This definition does not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant. Given the passage of the 2018 Farm Bill, the plant *Cannabis sativa* L. with THC levels of no more than 0.3% on a dry weight basis are not governed by the CSA and, therefore, excluded from the working definition of marijuana. Research or any other activity involving the direct use of marijuana extracts, such as CBD or purified THC, must be conducted under a DEA Schedule I registration. As such, the requirements described in question 2 above must be met.

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### **4. What about FDA-approved drugs that contain substances derived from marijuana?**

The FDA-approved drugs Syndros and Marinol contain a synthetic form of THC and are regulated as Schedule II and III controlled substances, respectively. The FDA has also approved Epidiolex oral solution for the treatment of certain seizures associated with child epilepsy. This is the first FDA-approved drug that contains CBD, and has been classified as Schedule V. Any clinical testing of Epidiolex for conditions other than its single FDA-approved indication would require submission and approval of an Investigational New Drug request with the FDA.

In addition, despite the recent rescheduling of Epidiolex, CBD preparations other than Epidiolex remain classified as Schedule I controlled substances. Questions regarding these issues should be addressed to the UCLA Controlled Substance Program Administrator.

### **5. What state and federal requirements must be met before marijuana can be obtained for use in research? *Updated May 2020***

Marijuana (not hemp) may be obtained only from a source approved by the DEA. At present, only the University of Mississippi is authorized to produce marijuana plant-based products for use by researchers in the U.S. and distribution of these products is controlled by the National Institute on Drug Abuse (NIDA). In August 2016, the DEA announced that it would accept applications from other institutions interested in supplying marijuana for federal research. To date, no new approved sources have been announced by the DEA. See: <https://pharmacy.olemiss.edu/marijuana/> for more detail.

Research-grade cannabinoids for in vitro and animal studies are available from a variety of research vendors but are still considered Schedule I preparations and require an appropriate DEA research registration in order to purchase and use in the laboratory setting.

### **6. What about human research subjects and others participating in marijuana-related activities at UCLA who are allowed under California state law to obtain marijuana and its extracts for medical or recreational purposes?**

Despite California law legalizing certain adult use of marijuana, most distribution, possession, and use continues to be illegal under Federal law. Thus, these activities may still expose individuals to prosecution under federal law. It is permissible to include such individuals in research studies in which they are asked to report on the type of marijuana they are using and the subsequent effects they have experienced. However, they *cannot* be directed to use a specific source, type, and/or amount of marijuana by UCLA faculty, students, trainees, or staff. Additionally UCLA faculty, students, trainees, and staff *cannot* aid or assist in the procurement of the marijuana. Further,

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marijuana and its extracts procured by individuals for medical or recreational use *cannot* be used or stored at a UCLA facility.

### **7. Can research that does not involve the cultivation, distribution, possession, or direct use of marijuana be conducted?**

YES. The following types of research and other activities are acceptable, although all normal approvals for research must be obtained, including those for the use of human and animal participants:

1. Surveys of individuals already using marijuana for recreational or medical purposes.
2. Environmental impact studies on the impact of marijuana cultivation on the environment.
3. Research on the socioeconomic effects of marijuana cultivation, sale, or use.
4. Research on policy and legislative issues concerning marijuana.
5. Establishing websites or publishing newsletters through which results of the above-referenced research or other information on marijuana may be disseminated.
6. Conducting conferences, seminars, or informal meetings intended to provide objective information to UCLA staff and the public on various marijuana-related issues.

UCLA may not undertake activities intended to directly contribute to or aid and abet the cultivation, distribution, or sale of marijuana in contravention of federal law, even if some of these activities may now be legal under California state law. Furthermore, in conducting these activities UCLA faculty, students, and staff may not imply that UCLA endorses any company/individual involved in the marijuana industry or that (without authorization from campus government relations officials) implies UCLA endorses any specific legislative changes.

### **8. Do researchers need a Schedule I registration to conduct research with industrial hemp? *Updated July 2020***

The 2018 Farm Bill removed industrial hemp from the federal Controlled Substances Act, making hemp and hemp derivatives no longer a Schedule I Controlled Substance. Therefore, a Schedule I DEA registration is not required for the conduct of research with hemp and hemp derivatives.

Conducting research involving hemp is, however, still subject to other regulations and oversight. Guidance provided by the University of California Office of the President Research Policy Analysis & Coordination (RPAC) unit on Industrial Hemp advised that “Research with industrial hemp or hemp derivatives involving human or animal subjects remain subject to FDA requirements. Specifically, the 2018 Farm Bill preserved the FDA’s authority to regulate products containing cannabis and cannabis-derived products, including CBD that is derived from hemp.

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This means that the FDA continues to regulate cannabis, including hemp-derived CBD, as a drug that requires FDA authorization.

For research that involves cultivating hemp, the campus will need to determine how and whether basic regulatory requirements can be met before submitting a proposal, seeking seeds or cultivars, or making plans to cultivate industrial hemp for research.

For a list USDA approved state plans see: <https://www.ams.usda.gov/rules-regulations/hemp/state-and-tribal-plan-review>.

### **8a. Can UCLA accept support from commercial hemp growers? *New July 2020***

The 2018 Farm Bill authorizes hemp cultivation only by growers that meet one of the following criteria:

1. The grower is operating in compliance with a state regulatory plan that has been approved by the USDA; or
2. The grower has obtained and is operating in compliance with a USDA license to produce hemp; or
3. The grower is part of a state Department of Agriculture research Pilot Program, or a university, and the hemp is being grown exclusively for research, pursuant to the 2014 Farm Bill. This avenue will expire when Section 7606 of the 2014 Farm Bill is repealed 1 year after USDA issues hemp production regulations as required under the 2018 Farm Bill.

As of January 2020, the USDA started to approve state plans for hemp production. UCLA may accept funding, materials, or other in-kind support from commercial hemp entities growing hemp in compliance with a state regulatory plan that has been approved by the USDA (#1 above), or is part of a state Department of Agriculture research Pilot Program or a university and the hemp was grown exclusively for research (#3 above).

As the USDA has not yet started to approve individual USDA licenses (#2 above), and as such, UCLA cannot accept funding, materials, or other support from these types of commercial hemp entities.

### **9. What about consulting to the marijuana industry as a private individual? *Updated July 2020***

Outside activities related to marijuana must comply with standard UC policies and procedures governing outside consulting. Some of these outside activities may be legal under California law

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but not federal law, and UCLA faculty and staff would assume the same risks as any private citizen in California who chooses to engage in such activities. Because of UC's obligation to comply with federal law, *no* University resources (not even the normally allowed de Minimis or incidental personal use allowed for faculty consulting) may be used for outside activities with the cannabis industry (unless the activities are with entities that are operating in accordance with federal as well as state and local laws).

Anyone who engages in outside consulting activities with the cannabis industry should make it clear that the work was performed as a private individual, not as a UC employee, that no UC resources, facilities, or funds were used, and that no UC employees or students participated in their roles as a UC employee or student. UC employees who write articles, blogs, books, tweets, etc, that are outside the scope of their UCLA employment, should remember that they are engaged in these activities as **private individual and not as UC employees**. They must affirm that (1) they understand that the activity is outside of the scope of their employment, and (2) it will be done without the use of any UC resources, facilities, funds or employees or students (even incidental use, e.g., university computers, is prohibited).

Also, as recommended in item 6 of UC RPAC Guidance Memo 18-01

(see: [https://researchmemos.ucop.edu/index.php/site/memoDetail/memo\\_id/RPAC-18-01](https://researchmemos.ucop.edu/index.php/site/memoDetail/memo_id/RPAC-18-01)), and

as required by UCLA Policy 110 (see: <http://www.adminpolicies.ucla.edu/pdf/110.pdf>

Section III.E.4), employees are required to conspicuously state the following on this or any other articles or books that they author:

This book was authored by J. Bruin in his/her personal capacity. The views, opinions, and assumptions expressed in this book [or article] are the author's own and do not state or reflect the views of the University of California, Los Angeles or The Regents of the University of California.

### **10. Can employees, trainees, or students apply for funding support from the State of California and other states where some uses of marijuana have been legalized?**

YES. California Proposition 64 contained provisions for allocating funds for research on the effects of the proposition's implementation, as well as for research on the potential benefits and adverse effects of the use of marijuana for medical purposes. Other states, including Colorado, have implemented similar programs. Any research or other activity conducted by UCLA under this type of funding, however, must be in full compliance with the federal and state laws and UC policies cited above.

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UCLA researchers who are interested in submitting proposals to governmental sponsors for extramural funds to support cannabis-related research and other activities should confer with the Office of Contract and Grant Administration (OCGA).

### **11. Are there special considerations for gifts and fund-raising activities that may involve donations from the marijuana industry?**

While California law allows certain commercial cannabis activities conducted in accordance with state regulations, the cultivation, sale, distribution, use, and marketing of marijuana is still prohibited under federal law. Therefore, accepting financial support from members of the marijuana industry creates risks for the University and raises potential concern over compliance with applicable money laundering laws. This applies to the solicitation of donations as well as to applications for financial support in the form of contracts or grants.

In accordance with UC RPAC Guidance Memo 19-02, UC campuses *may not* accept donations from entities or individuals known to derive most or all of their funding from marijuana-related activities. Research support from individuals or entities indirectly connected to the marijuana industry must be evaluated individually as there are considerations of potential risk and optics.

With regard to entities where only one or a few income streams out of several are directly related to activities illegal under federal law, or those entities which provide services or products supporting the marijuana industry but do not engage in illegal activities themselves, UCLA faculty and staff should consult with Bill Kinsella, Executive Director, Gift Policy, before any offers of support are formally solicited or accepted to ensure that any questions of legal or reputational risk can be resolved.

### **12. What about setting up on-line fundraising mechanisms to support cannabis research, cannabis-related educational activities, or any other cannabis-related campus projects or groups?**

Setting up electronic donation links or using crowd-funding platforms has become a common approach for raising funds. Because of the risk involved in accepting gifts from individuals or businesses who derive their revenue from activities that are illegal under federal law, the campus is hesitant to endorse on-line fundraising related to cannabis. On-line fundraising for cannabis activities (research, student groups, etc.) may be done only if there is a disclaimer on the fundraising page related to these concerns and the restrictions related to federal law, if there is a limitation (written and/or hard coded) regarding the maximum allowable donation, and if there is a mandatory checkbox/attestation that potential donors must review and approve in which they certify that funds being donated are not derived from the sale, cultivation, distribution, etc. of

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cannabis. All individuals considering on-line fund raising for cannabis related activities must consult with Bill Kinsella, Executive Director, Gift Policy, to review the requirements and allowable approaches before engaging in on-line fund raising.

UCLA does not endorse the use of commercial crowd-funding platforms.

### **13. What about in-kind donations?**

Donations of marijuana plant materials or extracts or products made from marijuana (such as CBD oils) cannot be accepted for use in research or other activity at UCLA. All other donations (cash and in-kind including real estate and company stock or stock options) must be evaluated by Gift Policy before a determination can be made about whether they can be accepted.

### **14. Are there special considerations for contract and grant proposals?**

As indicated in question 11 above, while California law allows certain commercial cannabis activities conducted in accordance with state regulations, the cultivation, sale, distribution, use, and marketing of marijuana is still prohibited under federal law. Accepting support from such individuals and entities also raises potential concern over compliance with applicable money laundering laws and creates risks for the University. This applies to the applications for research support in the form of contracts or grants. In accordance with UC RPAC Guidance Memo 19-02, UC campuses *may not* accept grants or contracts from entities or individuals known to directly derive most or all of their funding from marijuana-related activities. Research support from individuals or entities who are indirectly connected to the marijuana industry must be evaluated individually as there are considerations of potential risk and optics.

Investigators who contemplate submitting proposals for contract or grant funds from non-profit organizations must confer first with OCGA staff. Investigators should confer with Clinical Trial Contracts & Strategic Relations (for industry supported clinical trials), or the Industry Research Contracts unit of the Technology Development Group (for all other industry supported research and related activities).

All other UC and UCLA requirements for submission of contract and grant proposals at UCLA apply as well.

### **15. What about involving representatives of the marijuana industry in educational or extracurricular activities on campus? *Updated July 2020***

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Conferences or classes that provide information on cannabis research and that are held by members of the scientific community are appropriate. While courses such as crop cultivation in general (not focused on a particular crop) may have educational value, it is not appropriate for UCLA to offer a course, sponsor lectures, or host conferences that focus on growing, distributing, or marketing marijuana. Because cultivation and sale of marijuana is still illegal under federal law, it is also not appropriate to have representatives of a marijuana business lead classes, sponsor student clubs or events, organize field trips, or to permit students to otherwise engage in commercial activities in the marijuana industry.

Speakers/panelists may be invited to participate in events with the understanding that they cannot engage in activities that are designed to further/facilitate the conduct of activities that are illegal under federal law. This includes activities such as recruiting employees, or marketing illegal marijuana businesses. Prospective speakers or panelists should be reminded that they are being invited in a personal capacity to address a particular business or financial topic but that they should not be promoting their own business if those companies cultivate, sell, distribute, use, or market marijuana or if their company's primary focus is on supporting these illegal activities (such as testing marijuana crops, delivering cannabis products or private equity firms focused on the cannabis industry).

Student clubs may also want to invite people who work in the cannabis industry to meetings or other events. Clubs should be encouraged to send written invitations to prospective speakers or panelist to avoid confusion about the roles they are being invited to fulfill. Such a letter might, for example, invite speakers to provide insights related to a specific issue involving the cannabis industry or a particular business or financial topic, while reminding them that their participation is not an invitation to specifically recruit for or promote activities that remain illegal under federal law. Student clubs should be encouraged to invite industry representatives in concert with other speakers from academia, government and other sectors so that students are exposed to multiple aspects of the marijuana industry.

UCLA should not support events/sessions designed to recruit UCLA students to work in an industry that supports activities that are illegal under federal law. It is inappropriate to host a session that promotes careers in parts of the cannabis industry that remain illegal under federal law. It may be possible, however, to invite representatives of companies to participate in a meeting or academic session that focuses on personnel issues in the cannabis industry more generally. Companies in the marijuana industry may invite UCLA students to events that they host off-campus, as long as neither the campus unit nor student clubs sponsor the events or help organize or advertise the event.

There are also concerns about UCLA staff entering into relationships that do not involve financial or in-kind support (such as no-cost research or educational collaborations) with businesses or

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representatives of the marijuana industry that are engaged in activities which are illegal under federal law. UCLA staff should only enter into such relationships as private individuals, unless the activity is reviewed and approved by the appropriate UCLA office.

### **16. May alumni who are in the cannabis business come to campus to mentor students who are interested in looking for jobs and/or starting their own cannabis-related businesses?**

It is not appropriate for alumni and other professionals who are engaged in activities that are not legal under federal or state law to mentor UCLA students or meet with them to discuss such illegal activities. Permitting such activities may expose the University to charges of knowingly and intentionally aiding or counseling someone who wants to engage in an activity that is illegal under federal law. For the same reason, the University should not promote any companies involved in activities that violate federal or state law.

### **17. What is the best way to seek additional guidance or clarification or ask a specific question? *New July 2020***

Questions should be submitted to [CannabisQuestions@research.ucla.edu](mailto:CannabisQuestions@research.ucla.edu).

### **18. Has the FDA approved CBD and THC in foods intended for human consumption? *New December 2021***

Federal FDA regulations still prevent CBD as additives and food supplements even though CBD-containing food products are now legal in California. The FDA through the Food, Drug and Cosmetics Act does not permit any form of CBD in any food, beverage, or supplements. The only exceptions are hulled hemp seed, hemp seed protein powder, and hemp seed oil that were approved by the FDA in 2008 as ingredients in foods intended for human consumption and which can be legally marketed in food sold for human consumption. See: <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd#hempseed>.

Given the discrepancy between state and federal regulations, research into CBD as a food additive is permissible, but supporting the marketing and sales of products that contradict Federal food regulations isn't something that the campus can endorse.

**For additional guidance and information see:**

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University of California Office of the President Research Policy Analysis & Coordination (RPAC) FAQs on Hemp at: <https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/cannabis/industrial-hemp-faq.html> (*added July 2020*)

University of California Office of the President Research Policy Analysis & Coordination (RPAC) Guidance on Industrial Hemp at: <https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/cannabis/industrial-hemp-background.html>

University of California Office of the President Research Policy Analysis & Coordination (RPAC) Guidance Memo 19-02: “Pilot Approach when Considering Funding from the Marijuana Industry” at: <https://researchmemos.ucop.edu/php-app/index.php/site/document?memo=UIBBQy0xOS0wMg==&doc=3755>

University of California Office of the President Research Policy Analysis & Coordination (RPAC) Guidance Memo RPAC-18-01: “Updated Information for Researchers on Conducting Marijuana Research at the University of California” at: <https://researchmemos.ucop.edu/php-app/index.php/site/document?memo=UIBBQy0xOC0wMQ==&doc=3743>

Council on Government Relations, “Cannabis Research FAQs,” at <https://www.cogr.edu/cannabis-research-faqs>

University of California Policy BFB-BUS-50 on Controlled Substances at: <https://policy.ucop.edu/doc/3520503/BFB-BUS-50>

University of California Guidance on Use and Possession of Marijuana on UC Property at: <https://www.ucop.edu/marijuana-and-drug-policy/>

National Academies of Sciences, Engineering, and Medicine: “The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research,” Washington (DC): National Academies Press (US); January 12, 2017, at: <https://www.ncbi.nlm.nih.gov/books/NBK423845/>

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