

NOVEMBER 2024

Executive Order on Addressing the Harms of Federal Marijuana Criminalization and Advancing Equity and Public Health in Federal Cannabis-Related Policies and Programs

1. WHAT IS THE PURPOSE OF THIS PROPOSED EXECUTIVE ORDER?

DPA's proposed executive order was designed to compel the federal government to acknowledge, mitigate and begin to reduce harms caused by federal marijuana criminalization, particularly its disproportionate impact on communities of color and other underserved communities. The proposal seeks to advance equity in federal marijuana-related policies and programs by taking action to ensure that these policies promote public health, fairness, and justice.

2. WHY SEEK REFORM THROUGH AN EXECUTIVE ORDER?

The federal government has a responsibility to address the harms, barriers, and racial disparities caused by marijuana criminalization. Comprehensive reform, which would fully end marijuana criminalization and achieve these goals at the federal level, ultimately would require Congress to pass legislation like the Marijuana Opportunity Reinvestment and Expungement (MORE) Act or the Cannabis Administration and Opportunity Act (CAOA). However, through executive and administrative action, the President can direct meaningful steps to reduce these harms even while marijuana remains federally illegal — these actions could also serve as a catalyst for future legislative reform.

An executive order — such as the one proposed by the Drug Policy Alliance — would provide a proactive, comprehensive framework to address injustices and promote equitable access to opportunities and benefits across all communities. It would leverage existing policy, regulatory, and budgetary tools to mitigate unnecessary harms and reduce barriers, going beyond what rescheduling marijuana to Schedule III can achieve.

3. WHAT SPECIFIC ACTIONS DOES THIS EXECUTIVE ORDER MANDATE?

The executive order mandates the following:

- Establishing a National Advisory Council to Advance Equity and Public Health In Federal Cannabis Policy and Programs.
- Conducting equity assessments in federal agencies to identify and address barriers to benefits and opportunities for underserved communities.
- Requiring federal agencies to develop Equity Action Plans that focus on advancing equity in their policies and programs.
- Directing specific agencies, such as the Department of Justice, Health and Human Services, Housing and Urban Development, and others, to take specific actions to immediately mitigate harms and consider certain issues while conducting their assessment and developing and implementing their plans.

4. WHY DOES THE EXECUTIVE ORDER INCLUDE A NATIONAL ADVISORY COUNCIL?

The Council would be responsible for advising the President on strategies to acknowledge, end, and repair harms caused by federal marijuana criminalization, and will provide recommendations to advance equity and opportunity in federal marijuana policy. The National Advisory Council would consist of members representing communities disproportionately impacted by federal marijuana criminalization.

5. HOW WOULD THIS EXECUTIVE ORDER AFFECT FEDERAL MARIJUANA POLICY?

This executive order could lead to significant administrative reforms across the federal government and within federal agencies. It would ensure that marijuana-related policies are reexamined through an equity and public health lens, with a focus on mitigating public health harms and the harms of past and current criminalization. The order also directs agencies to take specific actions to reduce barriers to benefits, services, and opportunities for communities disproportionately affected by these policies. These actions can be taken, even now, while marijuana remains a Schedule I drug.

6. WHAT ARE EQUITY ACTION PLANS, AND WHY ARE THEY IMPORTANT?

Equity Action Plans outline the specific actions the agency will take to advance equity within its policies, programs, and operations.

DPA's proposed executive order would require agencies to create marijuana specific equity actions plans known as Cannabis Equity Action Plans. Given the unfair enforcement of current marijuana laws, these plans would seek to foster government accountability to ensure that people are treated fairly under future federal marijuana laws, policies, and programs.

7. HOW WILL THE PUBLIC BE INVOLVED IN THIS PROCESS?

The executive order requires agencies to engage with members of underserved communities throughout the process. This includes proactive engagement through listening sessions, outreach events, and other methods to ensure that the voices of those most affected by federal marijuana policies are heard and considered in policy development.

The executive order also creates a National Advisory Council that would be responsible for engaging with members of the public on issues related to federal marijuana reform.

8. DOES THIS EXECUTIVE ORDER CREATE ANY NEW LEGAL RIGHTS?

No, this executive order does not create any new rights or benefits that are enforceable by law. It is intended to guide the operations of federal agencies and ensure that their actions align with the goals of advancing equity and mitigating the harms of federal marijuana criminalization.

9. WHAT ABOUT CANNABIS CLEMENCY?

Our proposal focuses on leveraging executive and administrative authority to advance equity and public health in cannabis-related policies through the use of an executive order. However, clemency remains an essential and complementary action that we urge the President to prioritize alongside the measures outlined in the proposed executive order.

Clemency refers to the President's constitutional authority to grant pardons or commutations to individuals convicted of federal crimes. Clemency can reduce or eliminate a sentence (commutation) or restore rights by forgiving the conviction (pardon). This power is exercised through proclamations, not executive orders.

While clemency is not explicitly included in our proposed executive order — since it falls outside the scope of what an executive order can mandate — we strongly support the President using their executive authority to grant clemency to individuals currently incarcerated for or with criminal records for cannabis-related offenses.