
 <b>Department of Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Special Condition – Prohibiting Adult-Use Cannabis</b>		NO. 9436
			DATE 07/29/2024
SUPERSEDES DIR. #9436 Dtd. 08/18/23	DISTRIBUTION A B	PAGES PAGE 1 OF 1	DATE LAST REVISED
REFERENCES (Include but are not limited to) Directive #9432	APPROVING AUTHORITY 		

- I. **PURPOSE:** To instruct Community Supervision staff on the approved use of cannabis by releasees pursuant to New York State (NYS) law.
- II. **POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to not impose special conditions prohibiting releasees to use cannabis. Special conditions can only be considered in cases where “it is shown by clear and convincing evidence that the prohibition is reasonably related to the underlying crime.” Nothing shall restrict the rights of a certified medical patient (see Section IV, “NOTE”).
- III. **PROCEDURE**
  - A. Parole Officer (PO) Responsibility
    1. The PO shall not impose special conditions prohibiting cannabis unless there is clear and convincing evidence that the prohibition is reasonably related to the underlying crime.
    2. The PO shall document the supporting evidence and rationale for the special condition in the Case Management System (CMS) and seek approval of a Senior Parole Officer (SPO) or higher authority prior to imposing the special condition.
    3. The PO shall explain to the releasee that they have a right to appeal the imposition of the special condition to the Parolee Grievance Program.
  - B. Senior Parole Officer (SPO) Responsibility
    1. The SPO will review all written special conditions prohibiting cannabis use to confirm that all clear and convincing evidence in support of the prohibition is documented.
    2. The SPO will then submit recommended special conditions regarding cannabis to the respective Bureau Chief (BC) or higher authority.
  - C. Bureau Chief (BC)/Regional Director Responsibility: The BC or Regional Director shall authorize or deny the imposition of the special condition upon review of the record as required in subsections III-A and B.
- IV. **CASE MANAGEMENT SYSTEM (CMS) REQUIREMENTS AND TESTING**
  - A. A case conference for any case where cannabis is prohibited will include a review of CMS to ensure all information is accurate.
  - B. Cannabis (marijuana) drug testing will only occur for releasees that are subject to a special condition prohibiting use. As outlined in Directive #9432, “Substance Abuse Testing by Community Supervision Staff,” if a releasee fails to admit to using cannabis, the PO may request confirmation testing from treatment providers or, with BC permission, submit for confirmation testing by a forensic toxicology laboratory.

**NOTE: If a releasee is a “certified medical patient,” no special condition prohibiting cannabis usage can be imposed, nor can the releasee be drug tested for cannabis even when cannabis use is reasonably related to the underlying crime.**