Conditional Adult-Use Retail Dispensary (CAURD)

Frequently Asked Questions

Qualifying Nonprofit Eligibility Criteria

What are the Qualifying Nonprofit Eligibility Criteria? Am I Eligible?

1. Can a nonprofit organization be eligible for a CAURD license?

   Any business—regardless of its corporate structure—can apply for a license. This includes nonprofit organizations, as well as businesses wholly or partially owned by nonprofit organizations. For purposes of this FAQ and your application, the business that will operate your dispensary if you are selected for licensure is the “applicant.” Applicants who are nonprofit organizations or who are owned by a nonprofit organization have a distinct set of eligibility criteria.

2. Can the retail dispensary that we propose to own and control as the nonprofit be organized as an entity that is separate from us?

   Yes, the retail dispensary can be organized as a business or organization separate from the qualifying nonprofit. The “qualifying nonprofit” refers to the nonprofit organization that meets the eligibility criteria. The entity that will be operating the retail dispensary upon licensure must meet the minimum ownership thresholds described in question 5 and be controlled by the qualifying nonprofit organization. In this circumstance, for the purpose of the application, the “applicant” refers to the entity that will be operating the retail dispensary.

3. What documentation will CAURD applicants who are eligible under the qualifying nonprofit criteria need to submit?

   Applicants who are eligible under the qualifying nonprofit criteria will be asked to submit some or all of the following supporting documentation to prove eligibility for a license:

   - IRS Form 990 or 990N of the qualifying nonprofit
   - IRS Exemption Letter of the qualifying nonprofit
   - Audited financial statements for the qualifying nonprofit and social enterprise
   - Proof of the marihuana-related offense conviction of the justice involved board member of the qualifying nonprofit, such as a certificate of disposition, a record of judgment and conviction, or an arrest record
   - Organizational chart showing control of the applicant
• Annual reports or other similar documents showing the qualifying nonprofit’s programming.

4. **What are the requirements for a CAURD applicant that is eligible under the qualifying nonprofit criteria?**

All applicants for CAURD must meet the following eligibility requirements:

1. The following must be US citizens or permanent residents:
   - all members of a partnership; or
   - if a corporation, each of its principal officers and more than one half of the directors; and

2. all parties interested in a license must be at least twenty-one (21) years old; and

3. the applicant must have a significant presence in New York State or otherwise meet the definition of applicant in the Cannabis Law by having a principal corporate location in New York State, being organized under the laws of New York State, or by having a majority of the board members be residents or physically present in New York State.

An applicant that is eligible under the qualifying nonprofit criteria must also prove the qualifying nonprofit with sole control of the applicant has:

   • a history of intentionally serving current or formerly incarcerated individuals, including justice involved individuals;

   • a history of creating vocational opportunities for current or formerly incarcerated individuals, including justice involved individuals;

   • at least one justice involved board member, officer, governing committee member, or advising committee member;

   • at least five full time employees; and

   • operated a social enterprise that had net assets or profit for at least two (2) years, defined as a business serving customers, operated by a nonprofit or fiscally sponsored by a nonprofit, which both fulfills the parent organization’s mission and generates revenue ([see question 10.](#))

5. **What are the ownership and control requirements for a CAURD applicant that is eligible under the qualifying nonprofit criteria?**

At least fifty-one percent (51%) of the applicant must be owned by the qualifying nonprofit organization, or by multiple eligible nonprofit organizations and/or justice involved people. If multiple groups make up the fifty-one percent (51%) minimum, at least thirty percent (30%) must be owned by one nonprofit organization that is
eligible under the qualifying nonprofit criteria, who must also have sole control of the applicant.

For more information on the ownership and control requirements please see the CAURD FAQ here.

**Qualifying Nonprofit**

6. **Does the qualifying nonprofit eligibility criteria require a justice involved individual?**

Yes. The qualifying nonprofit organization must have at least one (1) justice involved board member, officer, governing committee member, or advising committee member.

A justice involved individual is someone who:

- was convicted of a marihuana-related offense in New York State before March 31, 2021; or
- had a parent, legal guardian, child, spouse, or dependent who was convicted of a marihuana-related offense in New York State prior to March 31, 2021; or

  *Note: Spouses include those individuals who were in a domestic partnership because they were not legally permitted to marry in New York State prior to the enactment of the Marriage Equality Act (June 24, 2011).*

- was the dependent of someone who was convicted of a marihuana-related offense in New York State before March 31, 2021.

For more information on justice involved individuals please review the CAURD FAQs here.

Applicants will be required to submit documentation proving this conviction as part of the application process. For more information on acceptable documentation please review the ‘Completing your Application’ FAQs here.

7. **What is a marihuana-related offense?**

A marihuana-related offense is:

- An offense described under article 221 of the New York State Penal Law (Offenses Involving Marihuana) prior to its repeal on March 31, 2021; or
- An offense described under article 220 or section 240.36 of the Penal Law where the substance involved was Marihuana, that occurred prior to the creation of article 221 in 1977; or
• An arrest for an offense as described above that ultimately led to a conviction for another offense, such as non-drug offense, violation, or misdemeanor, by means of a plea deal or other mechanism.

An offense that is otherwise prohibited under Section 137 of Cannabis Law cannot be a marihuana-related offense. Section 137 of the Cannabis Law states that individuals with certain felony convictions related to the operation of a business and the trafficking of cannabis in the last three years may not be able to obtain a license to sell or manufacture cannabis, pending Board review. Please see the text of the Cannabis Law for details.

8. What does it mean to “intentionally serve” justice involved individuals?

To be eligible, the qualifying nonprofit organization must have a clear mission, an organizational goal, or a history of providing services to individuals who have been (or currently are) involved in the criminal justice system. Eligible qualifying nonprofits provide services to individuals who are currently or formerly incarcerated, on parole or probation, involved in alternative to incarceration programs, pending adjudication, and/or participating in delinquency-prevention programs. The population served must include individuals who were convicted of marihuana-related offenses.

Qualifying nonprofits can best demonstrate that they intentionally serve justice involved individuals by providing a recent IRS Form 990 wherein a written description of the organization’s mission, most significant activities or program accomplishments clearly include services to justice involved individuals and communities with historically high rates of arrest, conviction, incarceration or other indicators of law enforcement activity for marihuana-related offenses.

9. The qualifying nonprofit affiliated with my CAURD application does not have a justice involved individual on the board or as an officer but does have someone who has been convicted of something else. We meet all the other requirements. Are we eligible to apply?

No, as explained in Question 6, the qualifying nonprofit must have at least one justice involved board member, officer, governing committee member, or advising committee member.

10. What is a social enterprise?

A social enterprise is a business serving customers that is operated by an independent nonprofit organization, or by a fiscally sponsored nonprofit organization, which fulfills both the nonprofit organization’s mission and generates revenue. The social enterprise must be set up as a mission-driven economic enterprise, not based entirely on grant redistribution, operating to advance the programmatic and/or philanthropic goals of the nonprofit organization and generating revenue. The
executive decisions and administrative upkeep of the business are the responsibility of the nonprofit organization or agents of the nonprofit organization.

A social enterprise raises money to substantially further an organization’s purpose. Fundraising events, which include but are not limited to dinners, auctions, and other events conducted for the sole or primary purpose of raising funds for the organization, are not considered social enterprises. However, events or activities that substantially further the organization’s explicit purpose, if they also raise funds, may qualify as the operation of a social enterprise. Sales or gifts of goods or services of only nominal value, raffles or lotteries in which prizes have only nominal values, and solicitation campaigns that generate only contributions are considered contributions. These contributions are not fundraising dollars. Therefore, contributions may also qualify as the operation of a social enterprise, if they substantially further the organization’s purpose.

11. **How long does the social enterprise have to have been in existence?**

The social enterprise must have been in operation for at least two (2) full years. Regardless of how long the social enterprise has operated, the application must prove the social enterprise had two (2) years of net profit or positive net assets.

12. **My organization provides mental health and substance-abuse services directly to individuals in the community. Are we eligible to apply for a CAURD license?**

Yes, as long as all eligibility requirements are met. There are no prohibitions on the types of services that may be provided by the qualifying nonprofit organization, only that it must intentionally serve and provide vocational opportunities for justice involved individuals.

13. **My organization has programming for youth under twenty-one (21). Are we eligible to apply for a CAURD license?**

Yes, as long as all eligibility requirements are met. No individual with an interest in the dispensary, such as a board member, director, or officer may be under twenty-one (21) years old. All employees, volunteers, or workers of any kind working with customers in a retail dispensary or handling cannabis in any capacity must also be at least twenty-one (21) years old, pursuant to the Cannabis Law.

**Dispensary Set-up and Location**

14. **What support will CAURD licensees eligible under the qualifying nonprofit criteria receive from the office?**

Licensees eligible under the qualifying nonprofit eligibility criteria will receive the same benefits as all CAURD licensees. This means such licensees will be offered, if available, a storefront location and/or financial assistance from the New York Social
Equity Cannabis Investment Fund (Fund) that can be used for construction, renovation, and equipment purchasing associated with establishing or developing your retail dispensary business.

The Office offers loans through the Fund which applicants will not be liable to repay in the event of a default. Loans will be disbursed by the Fund, operated by a general partner, who will be available to the licensee for any questions. Please note the general partner is not a business advisor – they will not give you advice on business operations.

Individual lease terms will reflect a market rate rental price for the location provided, meaning locations in more expensive markets may have more expensive monthly fees. Additionally, the licensee will be responsible to pay a program fee to the Fund for their rent of the assigned location and any loans received by the licensee.

Please continue to monitor the Office’s website for terms related to the Fund loans. The Office will make available business technical services for applicants for the purposes of accelerating the CAURD’s business plans to opening a retail dispensary.

15. Will nonprofits that only serve a specific city or specific neighborhood be able to open a retail dispensary in the community they serve?

All applicants, including those eligible under the qualifying nonprofit criteria, will be asked their preferred regions for opening a dispensary on the application and, if selected, may be matched with an available location within that region. The Office does not guarantee selected applicants will be matched with a specific retail location.

16. I have a question about CAURD that is not answered here. Who can I contact?

If your question is not answered here, view the CAURD FAQ or—if your question is not answered there—contact the Office at licensing@ocm.ny.gov or call 1-888-OCM-5151 (1-888-626-5151)