



The Schedule I Status of Marijuana

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The [Controlled Substances Act](#) (CSA) places various substances in one of five schedules based on their medical use, potential for abuse, and safety or risk for dependence. The [five schedules](#) are progressively ordered with Schedule V substances regarded as the least dangerous and addictive and Schedule I substances considered the most dangerous and addictive. Schedule I substances are considered to have a “high potential for abuse” with “no currently accepted medical use in treatment in the United States.” The CSA prohibits the manufacture, distribution, dispensation, and possession of Schedule I substances except for federal government-approved research studies.

Marijuana is listed as a [Schedule I controlled substance](#) under the CSA, and has been on Schedule I since the CSA was enacted in 1970 (P.L. 91-513). For background on how marijuana came to be placed on Schedule I, see [Appendix B](#) of CRS report, *The Marijuana Policy Gap and the Path Forward*.

The Schedule I status of marijuana means that the substance is strictly regulated by federal authorities. Yet, over the last several decades, most states and territories have deviated from across-the-board prohibition of marijuana, and now have laws and policies allowing for some cultivation, sale, distribution, and possession of marijuana.

Select Issues Surrounding the Schedule I Status of Marijuana and the Policy Gap with States

Select key issues related to the Schedule I status of marijuana and the gap between federal and state marijuana policies are highlighted below.

- **Institutions of Higher Education (IHEs).** [It has been reported](#) that IHEs may decline to permit research on marijuana on their campuses, because doing so may put them at risk of losing federal funds. An [IHE’s policy prohibiting marijuana on campus](#) may also affect students for whom their states have authorized the use of medical marijuana. Under the [Higher Education Act of 1965](#), each IHE must adopt a program to prevent the use of illicit drugs and alcohol and annually distribute standards of conduct that prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol on the institution’s property or as part of any of its activities and that describe applicable legal sanctions.
- **Financial Services for Marijuana-Related Businesses.** Despite the guidance issued by the [Treasury Department’s Financial Crimes Enforcement Network](#) (FinCEN) on how financial

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institutions may provide banking services to marijuana-related businesses, [many financial institutions remain reluctant](#) to openly enter into relationships with state-authorized marijuana businesses due to the Schedule I status of marijuana.

- **Research on Marijuana.** The Schedule I status has [reportedly created difficulty for researchers](#) who seek to study marijuana, but are potentially unable to meet the strict requirements of the CSA, or seek a different strain, potency, or quality of marijuana for their research than what is lawfully available.
- **Legal Consequences for Individuals.** Violations of federal marijuana laws, even in instances where individuals are using marijuana consistent with state laws, give rise to a range of other issues including eligibility for [student financial aid](#), [housing and food assistance](#), [gun ownership](#), [visas](#), and [employment](#).

Drug Enforcement Administration (DEA) Rejection of Petitions to Reschedule

Over the years, several entities have submitted petitions to the DEA to reschedule marijuana. In August 2016, after a five-year evaluation process done in conjunction with the Food and Drug Administration (FDA), the [DEA rejected two petitions](#)—one submitted by two state governors and the other submitted by a New Mexico health provider—to move marijuana to a less-restrictive schedule under the CSA. [Consistent with past practice](#), the rejections were based on a conclusion by both the FDA and DEA that marijuana continues to meet the criteria for inclusion on Schedule I—namely that it has a high potential for abuse, has no currently accepted medical use, and lacks an accepted level of safety for use under medical supervision.

Authority to Alter the Schedule I Status of Marijuana

Both Congress and the Administration have the ability to alter marijuana's status as a Schedule I substance. The Administration could make such changes on its own, though it is [bound by the CSA](#) to consider factors including a substance's medical utility and risk of abuse and dependence prior to altering its scheduling status. Congress could also alter marijuana's status by amending the CSA, but without such confines. Of note, in [congressional hearings](#) and [other forums](#), some Members of Congress in [both major parties](#) have questioned the Schedule I status of marijuana while other Members have maintained that marijuana [should remain illegal](#). Those questioning its status have expressed support for, at minimum, moving it to a lower schedule. Some have gone further and supported its removal from the CSA altogether. Those continuing to support its Schedule I status express concern over the negative implications of its widespread use.

Options for Congress

Congress could choose to maintain the federal prohibition on marijuana, but if it wanted to address the Schedule I status, it could do a number of things: (1) amend the CSA to move marijuana to a less restrictive schedule; (2) create an entirely new schedule or other category for marijuana; or (3) remove it entirely from the CSA. If marijuana remains a controlled substance under the CSA *under any schedule*, that would maintain the [existing conflict between the federal government and states that have legalized recreational marijuana](#), though moving marijuana to a less restrictive schedule could help mitigate conflicts between federal law and state *medical* marijuana laws. The creation of a new schedule solely for marijuana would give Congress an opportunity to modify the criminality of marijuana under the CSA. If Congress chose to remove marijuana from the CSA entirely, it could seek to regulate and tax commercial marijuana activities.

In 2019, the House Judiciary Committee marked up and ordered to be reported H.R. 3884, the Marijuana Opportunity Reinvestment and Expungement Act of 2019 (the MORE Act). Among other things, the bill (see also S. 2227) would remove marijuana from the CSA. Other bills introduced in the House in the 116th Congress, including H.R. 4323 and H.R. 171, would move marijuana to a lower schedule of the CSA.

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