



Community Education Council 24

Public School 71 - Forest
 62-85 Forest Avenue, Room 110
 Ridgewood, New York 11385
 718-821-7772, Ext . 1101
 Website: [www. CEC24.org](http://www.CEC24.org) /
 CEC24@schools.nyc.gov

Resolution #190

Resolution Opposing Any Weakening of Minimum Distance Rules for Cannabis Dispensaries

Sponsor: Matthew Crescio. CEC24 President

WHEREAS, the Marijuana Regulation & Taxation Act (MRTA) was signed into law on March 31, 2021 legalizing adult-use cannabis in New York State and establishing the authority to operate cannabis dispensaries(i); and

WHEREAS, the MRTA authorized the creation of the Office of Cannabis Management (OCM), as an entity within the Division of Alcoholic Beverage Control, to license the cultivation, processing, distribution, and sale of cannabis(ii); and

WHEREAS, MRTA § 72 (6) states: “No cannabis retail licensee shall locate a storefront within five hundred feet of a school grounds as such term is defined in the education law”(iii); and

WHEREAS, NYS Education Law Chapter 16, Title 1, Article 9 § 409(2) defines “school grounds” as: “any building, structure and surrounding outdoor grounds, including entrances or exits, contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries”(iv); and

WHEREAS, OCM defined the measurement of minimum distance from schools in 9 NYCRR (New York Codes, Rules & Regulations) § 119.4(f)(2), adopted in the New York State Register (September 27, 2023 / Vol. XLV Issue 39), as “the center of the nearest entrance of the nearest building occupied exclusively as a school, on the school grounds”(v); and

WHEREAS, OCM, by interpreting the measurement standard to begin from a school-building entrance instead of the school's property line, effectively narrowed the scope of the MRTA's intended proximity restriction in favor of applicants for cannabis dispensary licenses; and

WHEREAS, in a July 28, 2025 memorandum, OCM acknowledged the regulatory invalidity and stated that this interpretation was inconsistent with Education Law § 409(2) and announced that the minimum distance between a dispensary and a school must be measured from the school's property line rather than from a building entrance; and

WHEREAS, as of July 2025, the reversal of the rule affected approximately 108 licensed dispensaries and 44 pending applicants(vii); and

WHEREAS, the state established a \$15 million Applicant Relief Program to cover up to \$250,000 per applicant awaiting approval of licenses for the costs of relocation, but offered no comparable compensation to existing license holders for their potentially higher relocation costs and lost revenue (viii); and

WHEREAS, a coalition of licensed cannabis dispensaries filed suit on September 15, 2025, to block the new distance measurement standards; and

WHEREAS, Albany County Supreme Court issued a preliminary injunction on September 25, 2025 in the matter of ConBud, et. al. v New York State Cannabis Control Board, et. al., ordering OCM to continue using the previous distance measurement standard until February 15, 2026(x); and

WHEREAS, Governor Kathy Hochul has stated to existing dispensaries affected by the law: "So what I've been doing is, First of all, reassure them that you're going to be OK. Secondly, we need to get the law changed to have a fix."(xi); and

WHEREAS, OCM "School Proximity Correction" webpage states, "Governor Kathy Hochul, OCM, and the Legislature will keep moving forward on a legislative solution that gives statutory protection to impacted businesses." (xii); and

WHEREAS, numerous medical studies conclude that cannabis use poses equal or greater overall risks than tobacco, particularly for school-aged children, including impacts on healthy brain development, academic achievement, and mental health to a far greater extent than tobacco (xiii); and

WHEREAS, studies also find that youth smoking rates increase as the proximity of tobacco retailers to schools decreases (xiv); and

WHEREAS, research demonstrates that low-income neighborhoods and communities with higher proportions of people of color tend to have greater densities of tobacco retailers near schools; and

WHEREAS, the Adolescent Tobacco Use Prevention Act (ATUPA), codified in New York State's Public Health Law Article 13-F Section 1399, is intended to prevent youth from easily accessing tobacco products (xvi); and

WHEREAS, Public Health Law Article 13-F Section 1399-DD-1, prohibits the display of tobacco and vaping product advertisements and paraphernalia on storefronts within 1,500 feet of any school (500 feet in New York City) (xvii); and

THEREFORE, BE IT RESOLVED, Community Education Council (CEC) 24 urges Governor Hochul and NYS legislators not to seek a “legislative fix” and instead:

- 1. Preserve the 500-foot minimum distance requirement from school grounds as written in the MRTA; and**
- 2. Ensure OCM does not adopt or reinstate regulations that relax the interpretation of minimum distance requirements, such as the previously used “door-to-door” and/or “same-street” carve outs that conflict with Education Law § 409(2); and**
- 3. Establish an equitable relief fund for the 108 licensed dispensaries for the purpose of making them whole (all costs to relocate, including related expenses and lost revenue); and**
- 4. Evaluate strengthening the MRTA distance standard, as proposed in Senate Bill S1244, to align with NYS public health policy regarding adolescent tobacco use (xviii);**

i <https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta>

ii <https://legislation.nysenate.gov/pdf/bills/2021/S854A>

iii <https://legislation.nysenate.gov/pdf/bills/2021/S854A>

iv <https://www.nysenate.gov/legislation/laws/EDN/409>

v <https://www.law.cornell.edu/regulations/new-york/9-NYCRR-119.4>

vi

<https://cannabisriskmanager.com/new-york-sparks-uproar-over-cannabis-policy-reversal-near-schools/#:~:text=New%20York%27s%20School%20Distance%20Rule,that%20this%20change%20was%20illegal.>

vii Ibid.

viii

<https://www.bluntruthlaw.com/2025/08/moving-the-goalposts-nyc-cannabis-retailers-get-schooled-on-proximity-rules/#:~:text=New%20York%20City%27s%20cannabis%20retailers,based%20on%20the%20original%20guidance.>

ix

https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=fPi2EgAag0dm_PLUS_6dHs1eHbg==&system=prod

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<https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=gCEMgaq6eCzit/4xq1Awew==&system=prod>

xi

<https://www.nbcnewyork.com/new-york/marijuana-dispensary-near-schools-mistake/6367327/#:~:text=The%20admission%20is%20just%20the,at%20least%20500%20feet%20awa>

y.

xii <https://cannabis.ny.gov/proximity-correction>

The CEC24 members voted and approved Resolution No. 190 at the CEC24 January 27th meeting.