



## Social Equity and New York

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### Social Equity Defined

Social equity doesn't have one definition; it means different things to different people. Defining the term requires a distinction between equity and equality. Equality means that everyone has the same opportunity regardless of any historical hardships or obstacles a particular person or group may face, whereas equity means that everyone is provided the tools necessary to achieve success in light of inequities. In sum, equity takes into consideration that treating people or groups of people the same way often does not lead to a fair outcome. Therefore, social equity is grounded in justice and fairness.

### A Brief History of Social Equity and Cannabis

The cannabis industry has unique considerations when it comes to justice and fairness. For over a century, the U.S. government has disproportionately incarcerated and harassed communities of color for their use of cannabis (and other drugs). This contrasted with the wealth generated by predominantly white men in the legal cannabis industry, makes the injustice of treating cannabis like any other business clear. Social equity has become an increasingly important topic in States that legalize cannabis and has led to what is often referred to as a "social equity applicant." While the definitions vary by State, usually the term "social equity applicant" is used as a catchall to refer to communities that have been disproportionately impacted by the war on drugs and cannabis-related charges.

To achieve social equity, states have taken various approaches, but most of the programs include:

- Minority set asides for licensure;
- Inclusion of social equity applicants in the licensing process (e.g., 51% of a license must be owned and controlled by social equity applicants to earn a certain number of points);
- Reinvestment of revenues in disproportionately impacted areas (usually defined as areas with a high rate of drug arrests that are also below the poverty line);
- Assistance or programming for social equity applicants in the licensing process;

- Benefits for operators who provide mentorship and incubation services to social equity applicants;
- Reduced fees for social equity applicants; and
- Expungement of certain classes of crimes related to the possession, cultivation, and sale of cannabis.

More information developed by the National Cannabis Industry Association can be referenced [here](#).

### **New York Social Equity Requirements**

According to the Innocence Project, Ninety-three percent of the people arrested by the NYPD for marijuana possession in January-March of 2018 were New Yorkers of color. In a 2010 report, the ACLU found that New York police arrested Black people for marijuana crimes 3.5 times more often than white people. The state of New York has bore witness to these injustices on the community, resulting in legislators mandating the following provisions in New York's [Marijuana Regulation and Taxation Act](#):

- The law states a goal to award 50% of all adult-use licenses to social and economic equity applicants. Experts *predict* that priority will be given for microbusiness and delivery licenses.
- 40% of the tax revenues generated by adult-use sales would be funneled into communities disadvantaged by the war on drugs.
- Existing medical marijuana operators would be required to pay a one-time "special licensing fee" to convert three of their MMJ dispensaries to dual medical-recreational stores. That fee, though not specified in the law, would help fund social equity programs.
- Financial support would be provided to social equity applicants including low- or no-interest loans, fee reductions or waivers, and assistance in preparing applications and operating a business.
- Microbusinesses would be allowed to form vertical operations, helping them achieve economies of scale. Other businesses, except for existing MMJ operators, would be prohibited from vertical integration.
- Social equity licensees would be prohibited from selling or transferring their licenses within the first three years after they are issued.

### **How to Build a Successful Social Equity Program in Your Business**

The establishment of a successful social equity program requires an understanding of the issues that communities of color encounter when entering a highly regulated industry. Some of the primary concerns include:

- Obtaining legal and other professional services;

- Submitting competitive applications;
- Maintaining compliance with complicated regulatory systems; and
- Raising capital without being diluted.

A successful social equity program addresses these issues, without providing “fly-by” services that leave social equity applicants with an understanding of the issue, but without the assistance needed to succeed. Services to assist social equity applicants could include:

- Legal counsel and other professional services to social equity applicants;
- Providing support/application fee assistance to prospective applicants;
- Providing compliance services to social equity applicant owned businesses;
- Lines of credit to ensure social equity owned businesses are not diluted;
- Agreeing to provide products at a reduced cost or on consignment.

Successful social equity programs also address the historical inequities that communities of color face every day. Other services could include:

- Sponsorship of expungement events;
- Funding wrongful conviction organizations, legal services organizations, veterans organizations, etc.; and
- Investment and sponsorship of non-profits working in communities impacted by the war on drugs.
- Assisting them with their own association, legal council with a limited amount of hours.

### **Challenges Social Equity Cannabis Businesses Encounter**

While absolutely not exhaustive, here are some of the challenges we’ve become aware of in working with social equity teams/individuals in the cannabis space:

1. Lack of access to capital (real estate);
2. Lack of access to capital (operations);
3. “Paycheck-to-paycheck” growth (meaning, a company isn’t able to scale the business as readily as other companies because the business is bootstrapping their growth strategy);
4. Lack of familiarity with the regulatory system/process (often these companies do not have the institutional knowledge/connections to engage with regulators);
5. Lack of political power (often these companies do not have the ability to pay high-priced lobbyists who can advocate for an industry that supports their growth).

### **Strategies to Explore**

While we anticipate the development of this program to be collaborative, we wanted to lay out a few program ideas for your consideration/to get the wheels turning:

1. **Town Halls:** Don't assume to know or fully understand the challenges a social equity operator may be experiencing. Inviting social equity teams to engage in meaningful discussions is critical if you want to develop meaningful solutions.
2. **Product Selection:** Commitment to purchasing a certain % of products from social equity cultivators and social equity manufacturers;
3. **Shared Services:** Partnering with a third-party (OR developing your own program) designed to centralize core business services for social equity businesses;
4. **Shared Press:** If/when you are approached for media coverage, consider including social equity suppliers or retailers to join you for the interview;
5. **Meaningful Marketing Programs:**
  - a. Dedicated web page(s) featuring social equity businesses that you have partnered with;
  - b. Features on social media;
  - c. Loyalty programs (designed to teach customers about social equity and how to identify social equity-owned retailers);
6. **Licensing Support:** Pre-submission licensing support/application strategy.
7. **Funding:** Bringing necessary financing to the table by way of making introductions between S.E. teams and real estate investment groups and/or investors looking to make funding placements in the industry.
8. **Grants/Micro Loans:** Partnering with a third-party company to make micro-loans accessible/known to S.E. teams or developing some sort of grant program.
9. **Centralized Cannabis Training:** Partnering with a third-party group (like Point7!) to train retailers in the space. Point7 is in discussions with a possible JV partner to develop an online training and compliance program. More to come here, but this would cut costs substantially for S.E. groups by ensuring that: 1) retail employees do not violate rules/regulations, resulting in penalties or loss of licensure; 2) retailers remain compliant; 3) retailers have the best customer service training available, resulting in higher average transaction sizes/increased profitability.

**10. Product Training:** Teaching S.E. groups about one another, about products being made by other S.E. teams and cross-marketing these companies/brands.

**11. Hiring Practices:** Employ people harmed by The War on Drugs. Actively recruit individuals who have been incarcerated because of the cannabis plant. Make this known by marketing open roles and publicly discussing your hiring practices. Offer extensive training to all employees to ensure success, and refrain from discounting individuals who may not have "the right experience," remembering that some people could not accrue meaningful work experience because of the inequities that exist for individuals post-jail time.

**12. Engage a Diversity & Inclusion Consultant:** While we can offer plenty of ideas, you may want to consider engaging a consultant who can help you to better understand diversity and inclusion, especially as it pertains to social equity.

**13. Vendor Selection:** Establish criteria for all suppliers and vendors (both in the cannabis industry and outside of the cannabis industry) and require all vendors and suppliers to have a social equity program of their own (does not necessarily need to mirror yours). Example could be: point of sale system; security providers; construction teams; designers; landscapers; architects; plumbers; HVAC/other equipment etc. An example of criteria could be:

- a. All vendors/suppliers must have a documented social equity program;
- b. All vendors/suppliers must have an established diversity and inclusion program;
- c. All vendors/suppliers must donate a portion of profits and/or revenue towards social justice focused non-profits or projects;
- d. Engage vendors/suppliers that are certified as a small, diverse business whenever possible.