

Student Policy for a Drug-Free Campus: Appendix C

NYS Penal Law: Article 220 - Controlled Substances Offenses; Article 222 - Cannabis (from New York State Senate web site: [Legislation | NY State Senate \(nysenate.gov\)](http://www.nysenate.gov))

<u>NYS Penal Law</u> Controlled Substances Offenses	Specifics	Sentence
§ 220.03 Criminal possession of a controlled substance (7 th degree).	Knowingly and unlawfully possessing a controlled substance (any substance listed in §3306 of the <u>NYS Public Health Law</u> other than marihuana, but including concentrated cannabis as defined in §3302 of <u>NYS Penal Law Article 220</u>).	Class A misdemeanor: imprisonment up to one year.
§ 220.06 Criminal possession of a controlled substance (5 th degree).	Knowingly and unlawfully possessing: 1. a controlled substance with intent to sell it; or 2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (aggregate weight of ½ oz or more); or 3. phencyclidine (50 mg or more); or 4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis (aggregate weight of ¼ oz ounce or more); or 5. cocaine (500 mg or more); or 6. ketamine (more than 1,000 mg); or 7. ketamine, and has previously been convicted of possession or the attempt to commit possession of ketamine in any amount; or 8. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 28 g or more).	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.
§ 220.09 Criminal possession of a controlled substance (4 th degree).	Knowingly and unlawfully possessing: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (an aggregate weight of 1/8 oz or more); or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (an aggregate weight of ½ oz or more); or 3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (an aggregate weight of 2 oz or more); or 4. a stimulant (1 g or more); or 5. lysergic acid diethylamide (1 mg or more); or 6. a hallucinogen (25 mg or more); or	Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). Maximum sentence 15 years.

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	<ul style="list-style-type: none"> 7. a hallucinogenic substance (1 g or more); or 8. a dangerous depressant (10 oz or more); or 9. a depressant (2 lbs. or more); or 10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis (an aggregate weight of 1 oz or more); or 11. phencyclidine (250 mg or more); or 12. methadone 360 mg or more); or 13. phencyclidine (50 mg or more) with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or conspiracy to commit any such offense); or 14. ketamine (4,000 mg or more); or 15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 200 g or more). 	
§ 220.16 Criminal possession of a controlled substance (3rd degree).	<p>Knowingly and unlawfully possessing:</p> <ul style="list-style-type: none"> 1. a narcotic drug with intent to sell it; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide, with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or conspiracy to commit any such offense; or 3. a stimulant (1 g or more) with intent to sell it; or 4. lysergic acid diethylamide (1 mg or more) with intent to sell it; or 5. a hallucinogen (25 mg or more) with intent to sell it; or 6. a hallucinogenic substance (1 g or more) with intent to sell it; or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (1/8 oz or more) with intent to sell it; or 8. a stimulant (5 g or more); or 9. lysergic acid diethylamide (5 mg or more); or 10. a hallucinogen (125 mg or more): or 11. a hallucinogenic substance (5 g or more); or 12. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or 13. phencyclidine (1250 mg or more). 	Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation). Maximum sentence 25 years.
§ 220.18 Criminal possession of a controlled substance (2nd degree).	<p>Knowingly and unlawfully possessing:</p> <ul style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 4 oz or more); or 	Class A-II felony: imprisonment 3 years to 8 years 4 months.

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	<ol style="list-style-type: none"> 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 2 oz or more); or 3. a stimulant (10 g or more); or 4. lysergic acid diethylamide (25 mg or more); or 5. a hallucinogen (625 mg or more); or 6. a hallucinogenic substance (25 g or more); or 7. methadone (2880mg or more). 	
§ 220.21 Criminal possession of a controlled substance (1st degree).	Knowingly and unlawfully possessing: <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 8 oz or more); or 2. methadone (5760 mg or more). 	Class A-I felony: imprisonment 15 to 25 years.
§ 220.25 Criminal possession of a controlled substance (presumption).	<ol style="list-style-type: none"> 1. The presence of a controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession by each and every person in the automobile at the time the substance was found (see §220.25 for exceptions). 2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance at the time such controlled substance was found (see §220.25 for exceptions). 	
§ 220.31 Criminal sale of a controlled substance (5th degree).	Knowingly and unlawfully selling a controlled substance (any substance listed in schedule I, II, III, IV or V of §3306 of <u>the NYS Public Health Law</u> other than marihuana, but including concentrated cannabis as defined in paragraph (a) of subdivision four of §3302 of <u>NYS Penal Law Article 220</u>).	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.
§ 220.34 Criminal sale of a controlled substance (4 th degree).	Knowingly and unlawfully selling: <ol style="list-style-type: none"> 1. a narcotic preparation; or 2. a dangerous depressant (10 oz or more) or a depressant (2 lbs. or more); or 3. concentrated cannabis as defined in §3302 of the <u>NYS Public Health Law</u>; or 4. phencyclidine (50 mg or more); or 5. methadone; or 6. phencyclidine (any amount) and previously convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or 7. ketamine (4,000 mg or more); or 8. a controlled substance in violation of section 220.31, when such sale takes place upon school grounds; or the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 	Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). Maximum sentence 15 years.

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	9. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (28 g or more), as defined in §3306 of the <u>NYS Public Health Law</u> .	
§ 220.39 Criminal sale of a controlled substance (3rd degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. a narcotic drug; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide (and previously convicted of an offense defined in §220 or the attempt or conspiracy to commit any such offense; or 3. a stimulant (1 g or more); or 4. lysergic acid diethylamide (1 mg or more); or 5. a hallucinogen (25 mg or more); or 6. a hallucinogenic substance (1 g or more); or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 1/8 oz or more); or 8. phencyclidine (250 mg or more); or 9. a narcotic preparation to a person less than 21 years old. 	Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation). Maximum sentence 25 years.
§ 220.41 Criminal sale of a controlled substance (2 nd degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of ½ oz or more); or 3. a stimulant (5 g or more); or 4. lysergic acid diethylamide (5 mg or more); or 5. a hallucinogen (125 mg or more); or 6. a hallucinogenic substance (5 g or more); or 7. methadone (360 mg or more). 	Class A-II felony: imprisonment 3 years to 8 years 4 months.
§ 220.43 Criminal sale of a controlled substance (1st degree).	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 2 oz or more); or 2. methadone (2880 mg or more). 	Class A-I felony: imprisonment 15 to 25 years.
§ 220.44 Criminal sale of a controlled substance in or near school grounds.	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> 1. a controlled substance in violation of any one of subdivisions 1– 6-a of §220.34, when such sale takes place upon school grounds; or 	Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation). Maximum sentence 25 years.

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	<ol style="list-style-type: none"> 2. a controlled substance in violation of any one of subdivisions 1– 8 of §220.39, when such sale takes place upon school grounds or on a school bus; or 3. a controlled substance in violation of any one of subdivisions 1– 6 of §220.34, when such sale takes place upon the grounds of a child daycare or an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 4. a controlled substance in violation of any one of subdivisions 1–8 of §220.39, when such sale takes place upon the grounds of child daycare or an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds. 	
§ 220.45 Criminally possessing a hypodermic instrument.	Knowingly and unlawfully possessing or selling a hypodermic syringe or hypodermic needle.	Class A misdemeanor: imprisonment up to one year.
§ 220.46 Criminal injection of a narcotic drug.	Knowingly and unlawfully possessing a narcotic drug and intentionally injecting, by means of a hypodermic syringe or hypodermic needle, all or any portion of that drug into the body of another person with the latter’s consent.	Class E felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 220.50 Criminally using drug paraphernalia (2 nd degree).	<p>Knowingly possessing or selling:</p> <ol style="list-style-type: none"> 1. diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant; or 2. gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant; or 3. scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant. 	Class A misdemeanor: imprisonment up to one year.

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§ 220.55 Criminally using drug paraphernalia (1st degree).	Committing the crime of criminally using drug paraphernalia in the second degree and having previously been convicted of criminally using drug paraphernalia in the 2 nd degree.	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.
§ 220.60 Criminal possession of precursors of controlled substances.	Possessing and at the same time intending to unlawfully manufacture: 1. a controlled substance; or 2. carbamide (urea) and propanedioc and malonic acid or its derivatives; or 3. ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; or 4. phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine; or 5. pentazocine and methyl iodide; or 6. phenylacetone nitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; or 7. diethylphenylacetone nitrile and dimethylaminoisopropyl chloride; or 8. piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or 9. 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.	Class E felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 220.70 Criminal possession of methamphetamine manufacturing material (2nd degree).	Possessing a precursor, a chemical reagent or a solvent with the intent to use or knowing another intends to use such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine.	Class A misdemeanor: imprisonment up to one year.
§ 220.71 Criminal possession of methamphetamine manufacturing material (1st degree).	Committing the offense of criminal possession of methamphetamine manufacturing material in the second degree, as defined in § 220.70, and has previously been convicted within the preceding 5 years of criminal possession of methamphetamine manufacturing material in the 2 nd degree or a violation of this section.	Class E felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 220.72 Criminal possession of precursors of methamphetamine.	Possessing at the same time a precursor and a solvent or chemical reagent, with intent to use or knowing that another intends to use each such precursor, solvent or chemical reagent to unlawfully manufacture methamphetamine.	Class E felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 220.73 Unlawful manufacture of methamphetamine (3rd degree).	Possessing, at the same time and location, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine: 1) two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or 2) one item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or 3) a	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.

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	precursor: (a) mixed together with a chemical reagent or solvent; or (b) with two or more chemical reagents and/or solvents mixed together.	
§ 220.74 Unlawful manufacture of methamphetamine (2nd degree).	<ol style="list-style-type: none"> 1. Commits violation of § 220.73 in the presence of another person under the age of 16, provided, however, that the actor is at least 5 years older than such other person under the age of 16; or 2. Commits violation of § 220.73 and has previously been convicted within the preceding 5 years of the offense of criminal possession of precursors of methamphetamine, criminal possession of methamphetamine manufacturing material in the 1st degree (§ 220.71), unlawful disposal of methamphetamine laboratory material (§ 220.76), unlawful manufacture of methamphetamine in the 3rd degree (§ 220.73), the 2nd degree (this section § 220.74), or the 1st degree (§ 220.75). 	Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). Maximum sentence 15 years.
§ 220.75 Unlawful manufacture of methamphetamine (1st degree).	Commits the crime of unlawful manufacture of methamphetamine in the 2 nd degree (§ 220.74) after having previously been convicted within the preceding 5 years of unlawful manufacture of methamphetamine in the 3 rd degree (§ 220.75), unlawful manufacture of methamphetamine in the 2 nd degree (§ 220.74), or unlawful manufacture of methamphetamine in the 1 st degree (this section § 220.75).	Class B felony: imprisonment for 1 to 9 years (may be sentenced to probation). Maximum sentence 25 years.
§ 220.76 Unlawful disposal of methamphetamine laboratory material.	Knowing that such actions are in furtherance of a methamphetamine operation, knowingly disposing of, or possessing with intent to dispose of, hazardous or dangerous material under circumstances that create a substantial risk to human health or safety or a substantial danger to the environment.	Class E felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.

<u>NYS Penal Law</u> Cannabis	Specifics	Sentence
§ 222.10 Restrictions on Cannabis use.	<p>1. smoking or vaping cannabis in a location where smoking or vaping cannabis is prohibited pursuant to article thirteen-E of the Public Health Law. These places include: places of employment, bars, indoor restaurants, indoor swimming pool areas, on public transportation and in waiting and boarding areas thereof, youth centers and detention facilities; in childcare facilities and daycares; group homes and public institutions for children; residential treatment facilities for children and youth; <u>all public and private colleges and universities</u> and educational and vocational institutions; hospitals and residential healthcare facilities; commercial establishments where any trade, profession, or charitable activity is being carried out; indoor arenas; zoos; bingo facilities; or</p> <p>2. smoking, vaping or ingesting cannabis or concentrated cannabis in or upon the grounds of a school, or on a school bus; provided, however, provisions of this subdivision shall not apply to acts that are in compliance with article three of the cannabis law (“Medical Cannabis”).</p>	A civil penalty: Fine not exceeding \$25; or community service not exceeding 20 hours.
§ 222.15 Personal cultivation and home possession of cannabis	<p>1. Planting, cultivating, harvesting, drying, processing or possession within private residence or on grounds of private residence, more than 3 mature cannabis plants and 3 immature cannabis plants at any one time.</p> <p>2. No more than 6 mature and 6 immature cannabis plants may be cultivated, harvested, dried or possessed within any private residence or on grounds of private residence.</p> <p>3. Personal cultivation of cannabis shall only be permitted within or on grounds of a person’s private residence.</p>	Discretionary Civil Penalty of up to \$200.
§ 222.25 Unlawful possession of cannabis	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. cannabis weighing more than 3 ounces, or 2. concentrated cannabis weighing more than 24 grams 	Fine of up to \$125
§ 222.30 Criminal possession of cannabis in the 3 rd degree	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> 1. cannabis weighing more than 6 ounces, or 2. concentrated cannabis weighing more than 5 ounces 	Class A Misdemeanor: imprisonment up to one year.

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§ 222.35 Criminal possession of cannabis in the 2 nd degree	Knowingly and unlawfully possessing: 1. cannabis weighing more than 5 pounds, or 2. concentrated cannabis weighing more than 2 pounds	Class E Felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 222.40 Criminal possession of cannabis in the 1 st degree	Knowingly and unlawfully possessing: 1. cannabis weighing more than 10 pounds, or 2. concentrated cannabis weighing more than 4 pounds	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.
§ 222.45 Unlawful sale of cannabis	Knowingly and unlawfully selling cannabis or concentrated cannabis	Violation: Fine of up to \$250
§ 222.50 Criminal sale of cannabis in the 3 rd degree	1. knowingly and unlawfully selling more than 3 ounces of cannabis or more than twenty-four grams of concentrated cannabis; or 2. being 21 years old or older, and knowingly and unlawfully selling or giving cannabis or concentrated cannabis to a person less than 21 years old.	Class A Misdemeanor: imprisonment up to one year.
§ 222.55 Criminal sale of cannabis in the 2 nd degree	1. knowingly and unlawfully selling more than 16 ounces of cannabis or more than 5 ounces of concentrated cannabis; or 2. being 21 years old or older, knowingly and unlawfully selling or giving more than 3 ounces of cannabis or more than 24 grams of concentrated cannabis to a person less than 18 years old.	Class E Felony: imprisonment of at least 1 year (may be sentenced to probation). Maximum sentence up to 4 years.
§ 222.60 Criminal sale of cannabis in the 1 st degree	Knowingly and unlawfully selling more than 5 pounds of cannabis or more than 2 pounds of concentrated cannabis.	Class D felony: imprisonment for 1 to 2 ½ years (may be sentenced to probation). Maximum sentence 7 years.
§ 222.65 Aggravated criminal sale of cannabis	Knowingly and unlawfully selling cannabis or concentrated cannabis weighing 100 pounds or more.	Class C felony: imprisonment for 1 to 5 ½ years (may be sentenced to probation). Maximum sentence 15 years.

Note: This information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. It is the reader's responsibility to check [New York State laws](#) to determine whether changes, additions or substitutions to the sentencing guidelines have been made.