

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE
FOURTH DEGREE
(C Felony)
(Sale of a Controlled Substance to a
Person Less Than 19 Years Old
Upon School Grounds)
PENAL LAW 220.34(7)
(Committed on or after Nov. 1, 1986)**

The _____ count is Criminal Sale of a Controlled Substance in the Fourth Degree.

Under our law, a person is guilty of Criminal Sale of a Controlled Substance in the Fourth Degree when that person knowingly and unlawfully sells a controlled substance to a person less than nineteen years of age, and such sale takes place upon school grounds.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “controlled substance,” “sell,” “knowingly,” “unlawfully,” and “school grounds.”

The term CONTROLLED SUBSTANCE includes *(specify)*.¹

SELL means to sell, exchange, give or dispose of to another [*or* to offer or agree to do the same].²

A person KNOWINGLY sells *(specify)* upon school grounds when that person is aware he or she is selling a substance which contains *(specify)* and is doing so upon school grounds.³ For this charge, the People need not prove that the defendant was aware that the person to whom the *(specify)* was sold was less than nineteen years of age.⁴

A person UNLAWFULLY sells *(specify)* when that person has no legal right to sell that substance.⁵ Under our law, with certain exceptions not applicable here, a person has no legal right to sell *(specify)*.

SCHOOL GROUNDS means in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary,

See, Penal Law § 220.00(5).

See, Penal Law § 220.00(1).

See, Penal Law § 15.05(2) and *People v Ryan*, 82 NY2d 497 (1993).

See, Penal Law § 15.20(3).

See, Penal Law § 220.00(2) and Public Health Law § 3396(1).

parochial, intermediate, junior high, vocational, or high school, or within one thousand feet of the real property boundary line comprising any such school.⁶

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), sold (specify) on school grounds;
2. That the defendant did so knowingly and unlawfully; and
3. That the person to whom the (specify) was sold was less than nineteen years of age.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Sale of a Controlled Substance in the Fourth Degree as charged in the ___ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Criminal Sale of a Controlled Substance in the Fourth Degree as charged in the ___ count.

See, Penal Law § 220.00(14).