

**GOVERNING BOARD POLICY**  
*Mojave Desert Air Quality Management District*

Policy No: 98-01  
Effective Date: February 23, 1993

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/s/

Last Review: January 26, 2015

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Robert Sagona, Chair

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**SUBJECT: MOJAVE DESERT SUPPLEMENTAL ENVIRONMENTAL PROJECTS**

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**POLICY:**

It is the policy of the Governing Board of the Mojave Desert Air Quality Management District (District) to encourage alleged violators in enforcement actions brought by the Air Pollution Control Officer (APCO) pursuant to his enforcement authority under Health & Safety Code §40752 to undertake Supplemental Environmental Projects (SEPs) as part of the settlement of such alleged violations consistent with the intent and guidance of the California Environmental Protection Agency (CAL-EPA) and the United States Environmental Protection Agency (USEPA) regarding the structure and implementation of such projects. It is also the policy of the Governing Board to encourage all alleged violators, to participate regardless of the size of the settlement or the size of the facility involved despite the fact that the amount of any single settlement amount may not in and of itself be sufficient to fund an entire project. Therefore, the Governing Board of the District by this policy hereby establishes the Mojave Desert Environmental Scholarship Program (“Scholarship Program”); the Mojave Desert Environmental Fund<sup>1</sup>.

**AMPLIFICATION OF POLICY:**

A. General

1. Supplemental Environmental Projects (SEPs) are defined as environmentally beneficial projects which an alleged violator agrees to under take in settlement of an enforcement action but which the alleged violator is not otherwise legally required to perform. It is the intent of the Governing Board to establish a variety of programs to be funded by portions of settlement monies designated as SEPs and used to make grants for scholarships and environmental projects that are consistent with SEP guidance.<sup>2</sup>

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<sup>1</sup> The use of the term “Fund” in this policy is not meant to imply that any portion of the monies allocated are controlled, managed or held by the District other than via the separate agreements with an independent nonprofit funding entity required as a result of this policy.

<sup>2</sup> Historically, projects sufficient to meet the requirements of the guidance provided by Cal-EPA and USEPA for SEPs needed substantial amounts of funding. This precluded small and medium sized alleged violators as well as alleged violations with relatively small settlement amounts to participate in such program.

2. Allocations to fund the Scholarship Program and the Mojave Desert Environmental Fund will be made from portions of the monies obtained in settlement of enforcement actions brought by the District or settlement of administrative or civil actions based on information provided by the District which are designated for use as SEPS in the settlement agreement or other documentation. The monies awarded to the scholarship recipients or grantees shall come from:
    - a. The interest earned from principal allocated to the Scholarship Program, or Mojave Desert Environmental Fund; or
    - b. In the event the principal is not large enough to generate interest sufficient to establish successful or equitable scholarships or grants, the principal will be used to fund the scholarships or grants until the fund is exhausted.
  3. No allocation which is greater than fifty (50) percent of the monies received in settlement of any particular enforcement action or lawsuit may be made to fund the scholarships or grants.
  3. The criteria for the award of any scholarships or grants will directly and proximately relate to the District and shall meet the legal nexus for environmental justice.
- B. The Mojave Desert Environmental Scholarship Program (Scholarship Program)
1. Scholarships Established Directly at Specific Institutions of Higher Learning
    - a. This program allows SEP moneys to be allocated to fund scholarships at the various public schools and universities located within the District and at California State University, San Bernardino (CSUSB). Funds generally will be directed to the existing programs set up by each institution for the purpose of funding and administrating scholarships.
  2. Establishment of Scholarship Program
    - a. The Mojave Desert Environmental Education Scholarship Program may be established at any public school or college physically located in the District. Monies may be allocated to one or more institutions from a particular SEP to ensure the necessary legal nexus between the alleged violation and the SEP.
    - b. On a case by case basis and dependant upon the monies available, the Mojave Desert Environmental Scholarship Program may be established at any two-year or four-year colleges not physically located within the District provided the Governing Board makes a finding that establishing scholarship programs at

such colleges will advance the cause of environmental justice and the respective colleges have sufficient legal nexus with the District.

c. The Mojave Desert Environmental Education Scholarship Program may be established at California State University, San Bernardino (CSUSB) because the Governing Board of the Mojave Desert Air Quality Management District has made a finding that a scholarship program at CSUSB will advance the cause of environmental justice and CSUSB has a sufficient legal nexus to the District in that there is no four-year public college or university within the District, CSUSB is within commuting distance to a majority of the population of the District, and many students from the District attend CSUSB.

d. The District shall not play any role in managing or controlling funds in the particular scholarship program. However, the District shall provide oversight and direction regarding the criteria for award of scholarships via this policy and through any necessary implementing agreements with the specific institution of higher learning involved.

3. Criteria for Award of Scholarship

a. The scholarship recipient must be a resident of the Mojave Desert Air Basin (MDAB) or a graduate of a high school physically located within the MDAB.

b. The scholarship recipient must carry at least ten (10) academic units during the semester or quarter for which the scholarship is awarded.

c. The scholarship recipient shall be determined by each college pursuant to the prevailing procedures used by the respective college for the award of scholarships at each such college. In no event shall the District, its employees, staff, or governing board members be involved in the selection of any scholarship recipient.

d. The scholarship recipient must have a minimum cumulative high school grade point average of 2.5 based on an A = 4.0.

e. The scholarship recipient must have demonstrated a serious interest or commitment to the environmental issues during the course of his or her high school education. This interest or commitment may be demonstrated through achievement in sciences, vocational sciences, community activities, or involvement in environmental issues.

4. Modification of Program

- a. The District will modify the Scholarship Program as may be required to comply with any requirements imposed by law or regulation.

C. Mojave Desert Environmental Fund

1. The Mojave Desert Environmental Fund will be established by separate agreement with and administered by an independent non profit funding entity to fund scholarships for residents of the District and grants to fund, in whole or in part, specific projects located within the jurisdiction of the District for the purpose of improving air quality within the District. Monies may be allocated to the Mojave Desert Environmental Fund as Supplemental Environmental Project portions of settlements of alleged violations as SEP Scholarships or SEP Grants or both.

2. Specialized Scholarships Usable at any Institution of Higher Learning (SEP Scholarships)

a. SEP moneys may be allocated to fund scholarships managed and administered by a local nonprofit foundation to fund scholarships for residents of the District. Such scholarships may, but are not required to, contain internal preferences for particular sub-areas within the District if such are necessary to ensure the nexus between the alleged violations and the SEP.

b. The District shall not play any role in managing or controlling the scholarships. However, the District shall provide oversight and direction regarding the criteria for award of scholarships via this policy and through any necessary implementing agreements with the local nonprofit foundation.

c. Criteria for Award of Scholarships

i. The scholarship recipient must be a resident of the MDAB or a graduate of a high school physically located within the MDAB. Specific scholarships may contain an internal preference for specific for particular sub-areas within the MDAB or the District as defined by zip code or other criteria.

ii. The scholarship recipient must carry at least ten (10) academic units during the semester or quarter for which the scholarship is awarded.

iii. The scholarship recipient shall be determined by the independent nonprofit funding entity pursuant to the prevailing procedures used for the award of scholarships and any implementing agreement between the District and contained in the separate implementing agreement. In no event shall the District, its employees, staff, or governing board members be involved in the selection of any scholarship recipient.

- iv. The scholarship recipient must have a minimum cumulative high school grade point average of 2.5 based on an A = 4.0.
- v. The scholarship recipient must have demonstrated a serious interest or commitment to the environmental issues during the course of his or her high school education. This interest or commitment may be demonstrated through achievement in sciences, vocational sciences, community activities, or involvement in environmental issues.
- d. The District will modify the SEP Scholarships as may be required to comply with any requirements imposed by law or regulation.

3. Grants for Particular Environmental Projects or Environmental Education Support (SEP Grants)

- a. SEP moneys may be allocated to fund grants to provide financial support in whole or in part for specific projects located within the jurisdiction of the District for the purpose of improving air quality within the District. SEP moneys may also be allocated to fund environmental educational support projects. Grants may be designated for a particular sub-area within the District or for a particular type of project to ensure the necessary nexus between the alleged violations and the SEP.
- b. The District shall not play any role in managing or controlling the grants. However, the District shall provide oversight and direction regarding the criteria for award of SEP Grants.
- c. Criteria for Award of SEP Grants
  - i. The SEP Grants must be for projects physically located within the jurisdiction of the District.
  - ii. The SEP Grants must be for projects which remedy or reduce the probable overall environmental or public health impacts or risks of a particular type or class of violation prevalent within the District or if the project is designed to reduce the likelihood that a particular type or class of violation will occur in the future on a District wide or a facility type basis.
  - iii. The SEP Grants must be for projects which advance at least one of the mandates of the District and/or its rules and regulations as set forth in Division 26 of the Health & Safety Code. No project can be inconsistent with the provisions of the Federal Clean Air Act (42 U.S.C. §§7401 et seq), the California Clean Air Act (Health & Safety Code §§39000 et seq.) or the rules and regulations promulgated thereunder.

- iv. The SEP Grants must be for projects which are not otherwise required by any law, rule or regulation. In addition, an SEP Grant should not appear to be an expansion of another existing program.
- v. SEP Grants shall be awarded by the independent non profit funding entity pursuant to the prevailing procedures used for the award of grants and any implementing agreement. In no event shall the District, its employees, staff, or governing board members be involved in the selection of any grant recipient.
- d. The District will modify the SEP Grant Fund as may be required to comply with any requirements imposed by law or regulation.