

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))  
14 **DE Admin. Code** 405

### FINAL

#### REGULATORY IMPLEMENTING ORDER

#### 405 Minor Capital Improvement Programs

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend Title 14 of the Delaware Administrative Code by amending 14 **DE Admin. Code** 405 Minor Capital Improvement Programs.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on September 1, 2014, in the form hereto attached as *Exhibit "A"*. No comments were received for this amended regulation.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 405 Minor Capital Improvement Programs in order to increase the threshold from \$500,000 to \$750,000 for such projects that can be classified as Minor Capital Improvement Projects.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 405 Minor Capital Improvement Programs. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 405 Minor Capital Improvement Programs attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 405 Minor Capital Improvement Programs hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 405 Minor Capital Improvement Programs amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 405 Minor Capital Improvement Programs in the *Administrative Code of Regulations* for the Department of Education.

#### V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on October 9, 2014. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 9th day of October 2014.

#### Department of Education

Mark T. Murphy, Secretary of Education

Approved this 9th day of October 2014

#### 405 Minor Capital Improvement Programs

#### 1.0 Minor Capital Improvement Program

- 1.1 The Minor Capital Improvement (MCI) Program (~~MCI~~) is a program ~~to~~ which provides for the planned and programmed maintenance and repair of the school plant. The program's primary purpose is to keep real property assets in their original condition of completeness and efficiency on a scheduled basis. It is not for increasing the plant inventory or changing its composition. Minor ~~Capital~~ Capital Improvement ~~P~~rojects ~~are~~

~~projects that cost less than \$500,000~~ \$750,000 unless the project is for roof repair. The MCI program shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.

- 1.2 ~~Minor Capital~~ Capital Improvement Project ~~pPurchase oOrders~~ shall be submitted to the ~~State Division of Accounting prior to any work being done. A separate purchase order must be submitted for each project reviewed and approved by both the Department of Education and the Office of Management and Budget prior to submission to the Division of Accounting.~~ (One copy of the approved purchase order ~~will be returned to~~ should be retained by the district for their information and record.)
- 1.3 Use of Funds: The following areas are authorized for the expenditure of ~~Minor Capital Improvement Program~~ MCI funds: maintenance, repairs, modernization, inspections, testing, maintenance agreements and service contracts related to: roofs, heating systems, ventilation & and air conditioning systems, plumbing & and water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built in equipment, painting, fire suppression ~~systems,~~ and life safety systems, security systems installation and maintenance, school grounds, athletic facilities and playgrounds, office equipment used for instructional purposes only and renovations, alterations and modernizations that do not require major structural changes.
- 1.4 Exclusions: Funds allocated for a specific project shall be used only for that project. Program funds may not be used for the following: movable equipment other than office equipment used for instructional purposes that is transported from one location to another, routine janitorial supplies, new construction that increases the area of a building or extends any of its component systems, site improvements that add to or extend the existing roadways or ~~side walks~~ sidewalks, surfacing a non-surfaced area for parking, completing major construction projects or specific items omitted or deleted from major construction projects or floor space allocated according to formula and used otherwise.
- 1.5 Invoices: Invoices shall be ~~sent directly to the Division of Accounting~~ approved by both the Department of Education and the Office of Management and Budget prior to submission to the Division of Accounting for processing. Payments may be made as the project progresses or after work has been completed and accepted, as warranted by the nature and scope of the individual project(s).

#### **14 DE Reg. 454 (11/01/10)**

### **2.0 Career Technical Program Equipment Replacement Requests**

- 2.1 Replacement of Career Technical Program ~~eEquipment~~ may be accomplished using ~~Minor Capital Improvement,~~ MCI Vocational Education Replacement funds.
- 2.2 Career Technical Program Equipment is defined as either a movable or fixed unit but not a built in unit. In addition, the equipment shall retain its original shape and appearance with use, be nonexpendable, and represent an investment which makes it feasible and advisable to capitalize and not lose its identity through incorporation into a different or more complex unit. Computers and computer peripheral equipment may be purchased using ~~Minor Capital Improvement~~ MCI Vocational Education Equipment Replacement Funds provided such equipment purchased with such funds is used in a vocational education setting for the service life of said equipment.
  - 2.2.1 In order to replace Career Technical Program ~~eEquipment~~, the equipment must have a unit cost of \$500 or more, be obsolete or more ~~then~~ than five (5) years old, and be purchased with state, state and local or local funds.
- 2.3 Funds shall be allocated based on the percentage of a district's Vocational Division II Units to the total of such units of all participating districts. This percentage is applied to the total funds available in a given year for ~~capital~~ Career Technical Program eEquipment. ~~Career Technical Schools are 100% State funded. Allocations for technical school districts do not require a local match.~~

#### **14 DE Reg. 454 (11/01/10)**

### **3.0 Purchase Orders**

Funds may be expended ~~anytime during the life of the Act which appropriated the funds,~~ as long as the appropriation is active and continuing as authorized through legislation, usually, a three year period. Appropriations may be accumulated over those three years and expended for a major replacement when a sufficient balance is attained. Funds unexpended when the ~~appropriating Act~~ appropriation expires shall revert to the State unless properly ~~and duly~~ continued through legislation, and in accordance with Office of Management and Budget requirements.

#### **14 DE Reg. 454 (11/01/10)**

### **4.0 Cost Limitations**

The maximum cost of a ~~Minor Capital Improvement MCI~~ Pproject is ~~\$500,000~~ \$750,000 except roof repairs and replacements which are not cost limited. Non-roof projects exceeding the ceiling shall be requested ~~in~~ through the Major Capital Improvement Program request process.

#### **5.0 Temporary Employees**

Workers may be hired under the ~~Minor Capital Improvement MCI~~ Program provided they are temporary hires and directly involved in the planning, constructing, or record maintenance of the construction project.

#### **6.0 Reporting**

~~School districts shall account for Minor Capital Improvement summary and detailed projects in the accounting system as required by the Delaware Department of Education in order to accomplish proper control and reporting of said projects.~~

**2 DE Reg. 1382 (02/01/99)**

**6 DE Reg. 1672 (06/01/03)**

**9 DE Reg. 970 (12/01/05)**

**14 DE Reg. 454 (11/01/10)**

**18 DE Reg. 368 (11/01/14) (Final)**