

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) and 29 Delaware Code, Section 7528
(14 Del.C. §122(b) & 29 Del.C. §7528)
14 DE Admin. Code 405

FINAL

REGULATORY IMPLEMENTING ORDER

405 Minor Capital Improvement Programs

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §122(b) and 29 Del.C. §7528, the Secretary of Education intends to amend 14 DE Admin. Code 405 Minor Capital Improvement Programs. This amendment is needed to provide clarity to local school districts regarding the Minor Capital Improvement Program and individual minor capital improvement projects, and to edit the regulation to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on June 1, 2020. In addition, notice was published in *The News Journal* and the *Delaware State News* on June 1, 2020, in the form hereto attached as *Exhibit "A"*. No comments were received for this 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 provide clarity to local school districts regarding the Minor Capital Improvement Program and individual minor capital improvement projects, and to edit the regulation to comply with the *Delaware Administrative Code Drafting and Style Manual*.

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 July 6, 2020. 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 6th day of July 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 6th day of July 2020

405 Minor Capital Improvement ~~Programs~~ Program

1.0 Minor Capital Improvement Program Purpose

- 1.1 ~~The Minor Capital Improvement (MCI) Program is a program 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 Improvement projects cost less than \$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 Improvement Purchase Orders shall be 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 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 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 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 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 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).~~

The Minor Capital Improvement 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 Improvement Program projects cost less than \$750,000 unless the project is for roof repair. The Minor Capital Improvement Program shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.

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

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

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

"Career Technical Program Equipment" means 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 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.

"Minor Capital Improvement Program" means a program which provides for the planned and programmed maintenance and repair of the school plant.

3.0 Use of Funds

- 3.1 The expenditure of Minor Capital Improvement Program funds are authorized for the following areas, including but not limited to: maintenance and maintenance equipment, repairs, 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 and life safety systems, security systems installation and maintenance, school grounds, athletic facilities and playgrounds, as well as renovations, alterations and modernizations that do not require major structural changes. Maintenance equipment may include specialized vehicles for maintaining buildings and grounds and attachments or accessories for general purpose vehicles where the attachments or accessories are for maintenance of buildings and grounds.
- 3.2 Funds allocated for a specific project shall be used only for that project. Program funds may not be used for the following: motorized vehicles not identified in subsection 3.1, 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 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.

4.0 Invoices

Invoices shall be approved by the Department of Education and the Office of Management and Budget before 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 or projects.

2.05.0 Career Technical Program Equipment Replacement Requests

~~2.15.1~~ Replacement of Career Technical Program Equipment may be accomplished using MCI Minor Capital Improvement Vocational Education Replacement funds 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 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.~~

~~2.2.15.2~~ ~~In order to To~~ replace Career Technical Program Equipment, the equipment must have a unit cost of \$500 or more, be obsolete or more than five (5) years old, and be purchased with ~~state, state and local~~ or local funds.

~~2.35.3~~ 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 Career Technical Program Equipment. Allocations for technical school districts do not require a local match.

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

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

3.06.0 Purchase Orders

6.1 Minor Capital Improvement Program project purchase orders shall be reviewed and approved by the Department of Education and the Office of Management and Budget before submission to the Division of Accounting.

6.2 Funds may be expended as long as the appropriation is active and continuing as authorized through legislation, usually a three (3) year period. Appropriations may be accumulated over those three (3) years and expended for a major replacement when a sufficient balance is attained. Funds unexpended when the appropriation expires shall revert to the State state unless properly continued through ~~legislation, and in accordance with legislation and~~ Office of Management and Budget requirements.

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

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

4.0 Cost Limitations

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

~~18 DE Reg. 368 (11/01/14)~~

5.07.0 Temporary Employees

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

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)

24 DE Reg. 142 (08/01/20) (Final)