

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 14 **DE Admin. Code** 405 Minor Capital Improvement Programs. This regulation was reviewed and amended as part of the 5 year cycle. The amendments are generally for clarification purposes.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Thursday, September 2, 2010, in the form hereto attached as Exhibit "A". The Department did not receive comments on the proposed amendments.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 405 Minor Capital Improvement Programs for clarification purposes.

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 21, 2010. 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 21st day of October, 2010.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

405 Minor Capital Improvement Programs

1.0 Minor Capital Improvement Program

- 1.1 The Minor Capital Improvement Program (MCI) is a program to provide 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 Capitol Improvement Projects are projects that cost less than \$500,000 unless the project is for roof repair. The MCI program ~~is~~ shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.
- 1.2 Minor Capitol Improvement Project purchase orders 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. (One copy of the approved purchase order will be returned to 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 funds: maintenance, repairs, modernization, inspections, testing, maintenance agreements and service contracts related to: roofs, heating systems, ventilation & air conditioning systems, plumbing & water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built in equipment, painting, fire suppression systems, life safety systems, ~~maintenance of site 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, 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 ~~may~~ shall be sent directly 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).

2.0 Career Technical Program Equipment Replacement Requests

- 2.1 ~~Requests for the r~~ Replacement of Career Technical Program equipment may be ~~made under the accomplished using~~ Minor Capital Improvement Program ~~Requests shall be made when the equipment is within three years of its estimated life so districts can accumulate the necessary dollars to purchase the item. Districts desiring to participate in the Career Technical Program equipment replacement program shall submit a request in writing to the Office of School Plant Planning at the time of the Minor Capital Improvement Program submission. Districts should not include Career Technical Program replacements with regular Major Capitol Improvement Projects, 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 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 equipment, the equipment must have ~~a minimum 10 year life expectancy,~~ have a unit cost of \$500 or more, be obsolete or more then five (5) years old, and be purchased with state, state and local or local funds.
- 2.3 Funds: 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 equipment. Career Technical Schools are 100% State funded.

3.0 Purchase Orders

Funds may be expended anytime during the life of the Act which appropriated the funds, 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. ~~However, should funds prove insufficient after three years of appropriations, the district must supplement the program from their own or other resources.~~ Funds unexpended when the appropriating Act expires shall revert to the State unless properly and duly continued in accordance with Office of Management and Budget requirements. ~~Purchase orders shall include the reference ID system, sub system, component and deficiency code from the correction on the facility assessment website database.~~

4.0 Cost Limitations

The maximum cost of a Minor Capital Improvement Project is \$500,000 except roof repairs and replacements which are not cost limited. Non roof projects exceeding the ceiling shall be requested in the Major Capital Improvement Program.

5.0 Temporary Employees

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

6.0 Reporting

~~At the end of each fiscal year, s School districts shall submit a list of completed projects accomplished under the Minor Capital Improvement Program~~ 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 (2/1/99)

6 DE Reg. 1672 (6/1/03)

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

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