

OPINION NO. 78-042**Syllabus:**

R.C. 3319.19 requires a board of county commissioners to provide telephone equipment in the offices of the county superintendent of schools. Telephone service, however, is an operating expense of the county board of education and must be included in its budget of operating expenses prepared pursuant to R.C. 3317.11.

To: Anthony G. Pizza, Lucas County Pros. Atty, Toledo, Ohio
By: William J. Brown, Attorney General, June 23, 1978

I have before me your request for an opinion regarding R.C. 3319.19. You indicate that while the section allows the county commissioners to provide heat, light, water, and janitorial service for the office of the county superintendent of schools, it does not include telephone service. You have, therefore, raised the following specific questions:

1. Does §3319.19, Ohio Revised Code, require the board of county commissioners to equip and pay for telephone service in the offices of the county superintendent of schools?
2. If the answer to question one is affirmative, how can such service be monitored by the board of county commissioners?
3. If the answer to question one is negative, who is responsible for the expense?

Telephone service is a type of operating expense incurred by the county board of education in the performance of its statutory duties. Operating expenses of the county board of education are generally provided for in R.C. 3317.11, which reads in pertinent part as follows:

Annually, on or before a date designated by the state board of education, each county board of education shall prepare a budget of operating expenses for the ensuing year for the county school district...and shall certify the same to the state board of education... Such budget shall consist of two parts. Part (A) shall include the cost of the salaries, employers retirement contributions, and travel expenses of supervisory teachers approved by the state board of education...Part (B) shall include the cost of all other lawful expenditures of the county board of education. The state board of education shall review such budget and may approve, increase or decrease such budget.

The county board of education shall be reimbursed by the state board of education from state funds for the

cost of part (A) of the budget...[and] for the cost of part (B) of the approved budget which is in excess of six dollars times the total number of pupils under the board supervision...for all the local school districts within the limits of such county school districts. The cost of part (B) not in excess of six dollars times the number of such pupils shall be apportioned by the state board of education among the local school districts in the county school district on the basis of the total number of such pupils in each such school district.

In absence of an express statutory provision to the contrary, a county board of education is, therefore, responsible for the payment of its operating expenses from funds allocated to it under R.C. 3317.11.

R.C. 3319.19 provides a limited exception to the general provisions set forth in R.C. 3317.11 in that it requires the board of county commissioners to assume responsibility for certain operating expenses of the county board of education. R.C. 3319.19 provides as follows:

The board of county commissioners shall provide and equip offices in the county for the use of the county superintendent of schools, and shall provide heat, light water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the county board of education when it is in session. Such offices shall be located in the county seat or upon the approval of the county board of education may be located outside of the county seat. (Emphasis added.)

As you indicate in your letter, a question similar to the one you pose was considered in 1959 Op. Att'y Gen. No. 141, p. 65. At the time that opinion was issued R.C. 3319.19 provided in pertinent part that "[t]he board of county commissioners shall provide and furnish offices in the county seat for the use of the county superintendent of schools." The opinion concluded that the term furnish as used in R.C. 3319.19 did not include the furnishing of janitorial services and such utilities as water, heat, light, and telephone. In response to the opinion, the General Assembly by enactment of Am. H.P. No. 869, effective November 9, 1959, amended R.C. 3319.19 to expressly require the board of county commissioners to provide heat, light, water and janitorial services for the superintendent's offices. Conspicuously absent from the amended version, however, is a specific provision for telephone service.

Since the authority of a board of county commissioners to act in financial matters must be strictly construed, State ex. rel. Lacker v. Menning, 95 Ohio St. 97 (1916), it is arguable that the absence of an express provision for telephone service in R.C. 3319.19 prohibits the provision of such service by the board. I would, in fact, adopt this conclusion had the General Assembly limited its revision of R.C. 3319.19 to the enumeration of certain utilities and services. The General Assembly, however, made an additional modification by providing that the board of county commissioners shall equip offices for the use of the superintendent. It is, therefore, necessary to consider if the duty to equip offices encompasses a duty to provide telephone service.

The word equip means "to fit up for a particular service of exigency", Star Distillery Co. v. Minolovitch Fletcher Co., 9 N. P. (n.s.) 218, 221 (1909), "to furnish for service, to provide with what is requisite for effective action." State v. Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co., 13 N.P. (n.s.) 145, 149 (1912). The term equip is, therefore, quite broad and its use in R.C. 3319.19 evinces a legislative intent to have the board of county commissioners provide the superintendent with the requisites for a fully functional office.

Telephone equipment is by any standard essential office equipment.

Consequently, R.C. 3319.19 now requires the board of county commissioners to provide telephone equipment in the office of the superintendent. The provision of telephone equipment is, however, limited to the costs for the initial installation of the equipment and any necessary maintenance or replacement of the equipment.

Your question, on the other hand, refers to payment for telephone "service", which is a term of broader import and encompasses the cost of telephone usage. In my opinion R.C. 3319.19 does not impose a duty on the board of county commissioners to assume responsibility for the superintendent's telephone service expense. Telephone service is a type of operating expense. As noted previously, a county board of education is responsible, pursuant to R.C. 3317.11, for its operating expenses in absence of an express statutory provision to the contrary. While the duty to equip offices fairly implies a duty to install telephone equipment, it does not necessarily imply a duty to assume responsibility for the ongoing expense of telephone service.

It is, therefore, my opinion and you are so advised that R.C. 3319.19 requires a board of county commissioners to provide telephone equipment in the offices of the county superintendent of schools. Telephone service, however, is an operating expense of the county board of education and must be included in its budget of operating expenses prepared pursuant to R.C. 3317.11.