

**OPINION NO. 84-095****Syllabus:**

1. Where a building purchased by the county board of education houses offices of the county superintendent of schools, in addition to serving other purposes, R.C. 3319.19 requires the board of county commissioners to provide heat, light, water, and janitorial services for only that portion of the building occupied by the county superintendent of schools and his staff.
2. Office space required by assistants of the county superintendent of schools or by other members of his staff is included in the "offices" which the board of county commissioners is required to provide for the use of the superintendent pursuant to R.C. 3319.19. (1981 Op. Att'y Gen. No. 81-005, followed.)

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**To: J. David Webb, Paulding County Prosecuting Attorney, Paulding, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 31, 1984**

I have before me your request for my opinion on the following questions:

1. When a County Board of Education acquires real estate [pursuant to R.C. 3313.37] for the primary purpose of providing necessary facilities for conducting Special Education Programs and such building is also used secondarily to house the office facilities for the County Superintendent and the staff, what are the responsibilities of the County Commissioners under Section 3319.19 of the Ohio Revised Code with reference to providing heat, light, water, and janitorial services for the offices of the Superintendent and his staff? Are they required to provide heat, light, water, and janitorial services for the entire building, just that portion of the building occupied by the Superintendent and his staff, or none of the building?
2. If the County Commissioners are required to provide heat, light, water, and janitorial services for just that portion of the building occupied by the offices of the County Superintendent, what personnel are included within the Superintendent's offices for the purposes of Section 3319.19 of the Ohio Revised Code?

R.C. 3317.11 provides for the payment of operating expenses of a county board of education from funds allocated to it under that section. R.C. 3317.11 states, in pertinent part:

(A). 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 on forms prepared and furnished by the state board of education and shall certify the same to the state board of education, together with such other information as the board may require. 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. The county board of education shall be reimbursed by the state board of education from state funds for the cost of part (B) of the approved budget which is in excess of six dollars and fifty cents times the total number of pupils under the board's supervision certified under section 3317.03 of the Revised Code, for all the local school districts within the limits of such county school district. The cost of part (B) not in excess of six dollars and fifty cents 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.

If part (B) of the budget is in excess of that approved by the state board of education, such excess cost shall be apportioned by the state board of education among the various school districts in the county school district on the basis of the total number of such pupils in each such school district, provided that a majority of the boards of education of such local school districts approve such apportionment. The state board of education shall initiate and supervise the procedure by which the local boards shall approve or disapprove such apportionment.

Absent an express statutory provision to the contrary, a county board of education is responsible for the payment of its operating expenses from the funds allocated to it under R.C. 3317.11. See 1983 Op. Att'y Gen. No. 83-053; 1978 Op. Att'y Gen. No. 78-042.

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 related to the offices of the county superintendent of schools. 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.)

A board of county commissioners, as a creature of statute, has only that authority which is expressly granted by statute or necessarily implied therefrom. See *State ex rel. Shriver v. Board of Commissioners*, 148 Ohio St. 277, 74 N.E.2d 248 (1947). Further, in *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99, 115 N.E. 571, 571-72 (1916), the court stated:

The legal principle is settled in this state that county commissioners, in their financial transactions, are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if

such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.

Thus, although it is clear that, pursuant to R.C. 3319.19, the board of county commissioners is required to provide heat, light, water, and janitorial services for the offices of the county superintendent of schools, this requirement does not extend to other offices operated by a county board of education. The board of county commissioners is neither required nor empowered to provide such services to other offices of the county board of education. Pursuant to R.C. 3319.19, the board of county commissioners is required to provide heat, light, water and janitorial services for only that portion of the building which is used by the county superintendent of schools.<sup>1</sup> As discussed below, however, the portion of the building which is occupied by the superintendent's staff must be included within the "offices" provided under R.C. 3319.19.

I turn now to your second question, in which you inquire as to what personnel are included within the superintendent's offices for purposes of R.C. 3319.19. As used in R.C. 3319.19, the term "offices" has been construed to include not only the office of an individual superintendent, but also the office space required by those assistants and clerical employees who constitute his staff. 1958 Op. Att'y Gen. No. 3051, p. 695 at 696 ("[c]ertainly the offices of the county superintendent. . . may include an extensive suite of rooms if the number of his assistants and clerical staff demands it. The purpose of providing him with offices is not merely for his personal comfort, but rather that he may have the facilities for performing the duties and fulfilling the responsibilities incident to his office"). In 1981 Op. Att'y Gen. No. 81-005 (syllabus), that term was found to include "programmatic personnel who assist the superintendent, as members of his staff, in fulfilling his duties and responsibilities as the chief executive officer of the county board of education." Accordingly, office space required by assistants of the superintendent or by other members of his staff is included in the "offices" the county commissioners are required to provide for the superintendent pursuant to R.C. 3319.19.

Therefore, it is my opinion, and you are advised, that:

1. Where a building purchased by the county board of education houses offices of the county superintendent of schools, in addition to serving other purposes, R.C. 3319.19 requires the board of county commissioners to provide heat, light, water, and janitorial services for only that portion of the building occupied by the county superintendent of schools and his staff.
2. Office space required by assistants of the county superintendent of schools or by other members of his staff is included in the "offices" which the board of county commissioners is required to provide for the use of the superintendent pursuant to R.C. 3319.19. (1981 Op. Att'y Gen. No. 81-005, followed.)

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<sup>1</sup> I note that one of my predecessors concluded that, pursuant to R.C. 307.01 and the duty of the board of county commissioners to furnish offices for county officers, a board of county commissioners may agree to pay a part of the cost of the operation of a private office when such office is also used as a branch office of the prosecuting attorney. 1965 Op. Att'y Gen. No. 65-091. See 1959 Op. Att'y Gen. No. 963, p. 653. Thus the possibility of having the county commissioners pay only a portion of the expenses of a particular office has been recognized in the past.