

**OPINION NO. 82-030**

**Syllabus:**

1. A board of education may permit a cable television company to videotape school athletic events.
2. A board of education is not required to demand remuneration from a cable television company which is videotaping school athletic events. The board is, however, authorized to charge a fee if it so desires.
3. A board of education which is receiving remuneration from a cable television company for the videotaping of school athletic events is under no duty to compensate the participants or the school boards of the opposing teams.

**To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio**  
**By: William J. Brown, Attorney General, May 4, 1982**

I have before me your request for my opinion in response to the following three questions:

1. Is it permissible for a board of education of a school district to allow a cable television company to videotape public school athletic contests even though such company is a private, profit-making corporation and even though viewing of the tapes is limited to those subscribing to the service?
2. If the answer to the first question is in the affirmative, does a board of education have the right and/or the duty to demand any type of [remuneration] for such commercial videotaping?
3. If the answer to the second question is in the affirmative and a board of education executes a contract to permit videotaping of athletic competitions, is that board required to compensate the participants and/or the school boards of each opposing team?

The dispositive issue with respect to each of your questions is the authority of a board of education to regulate activities conducted on school premises. The scope of this authority has been well-established by statute and by case law. Pursuant to R.C. 3313.47 a board of education "shall have the management and control of all of the public schools. . .in its respective district." Additionally, a board of education is empowered to "make such rules and regulations as are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises." R.C. 3313.20. "Under these statutes and the general statutes concerning the powers of boards of education it has been held that the rule-making power of such boards for the proper conduct, control, regulation and supervision of its employees, pupils and the entire school system is unlimited except to the extent that it is curtailed by express law. . . ." Holroyd v. Eibling, 116 Ohio App. 440, 445-446, 188 N.E.2d 797, 801 (Franklin County 1962). It has also been held that a court will not interfere with a board of education's exercise of its discretionary power unless the exercise of such power is unreasonable, in bad faith, or constitutes an abuse of discretion. State ex rel. Milhoof v. Board of Education, 76 Ohio St. 297, 81 N.E. 568 (1907); Youngstown Education Ass'n v. Board of Education, 36 Ohio App. 2d 35, 301 N.E.2d 891 (1973); Board of Education v. State ex rel. Goldman, 47 Ohio App. 417, 191 N.E. 914 (1934). Thus, a board of education is authorized to take any action relating to the management of the school system which is not restricted by express law or which does not otherwise constitute an abuse of discretion.

I am not aware of any statute which would prohibit a board of education from permitting the videotaping of school athletic events. Nor have you presented any facts which would indicate that the exercise of the board's power in such a manner would be unreasonable, in bad faith or an abuse of discretion. You have asked whether the fact that the cable television company is a private, profit-making corporation with only limited subscribers is significant. I am not aware, however, of any statute or case law that would make that fact, standing alone, significant. I must conclude, therefore, that a board of education may permit a cable television company to videotape school athletic events.

Your second question asks whether a board of education has the right or duty to demand some form of compensation from a cable television company in return for permission to videotape. There is no statute or case law which imposes a duty upon a board of education to demand remuneration for the videotaping of athletic events. Clearly, therefore, a board of education is under no obligation to require such compensation from the cable television company. There remains, however, the question of whether a board of education may demand remuneration if it so desires.

In Op. No. 74-063, at 2-263, I concluded that R.C. 3313.20 and R.C. 3313.47 vested in a board of education the "implied power to charge a fee for parking on school-owned property for school functions." The authority of a board of education to impose parking fees was recently upheld in Picklesimer v. Southwestern City School District Board of Education, No. 80AP-195 (Ct. App. Franklin County, Ohio, Sept. 30, 1980), cert. denied, No. 80-1681 (Sup. Ct. Ohio Jan. 22, 1981). For purposes of the analysis of a board of education's powers, there is no discernible difference between imposing a fee for parking in a school parking lot and requiring compensation for the videotaping of a school athletic event. See also 1982 Op. Att'y Gen. No. 82-014 (board of education may charge students fees to participate in extracurricular athletic programs). Thus, I conclude that a board of education may demand compensation from a cable television company which is videotaping school athletic events.

Your third question asks whether a board of education which is receiving remuneration from a cable television company must compensate the participants of the school boards of the opposing teams. I am not aware of any statute or court decision which would impose such a duty upon a board of education. I must conclude, therefore, that a board of education which is receiving remuneration from a cable television company for the videotaping of school athletic events is under no duty to compensate the participants or the school boards of the opposing teams.

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

1. A board of education may permit a cable television company to videotape school athletic events.
2. A board of education is not required to demand remuneration from a cable television company which is videotaping school athletic events. The board is, however, authorized to charge a fee if it so desires.
3. A board of education which is receiving remuneration from a cable television company for the videotaping of school athletic events is under no duty to compensate the participants or the school boards of the opposing teams.