814. COPYRIGHT MATERIALS

1. Purpose

The Board recognizes that the federal constitution grants authors and creators certain rights to protect their property as a means of promoting and advancing knowledge.

2. Authority

U.S. Const. Art. I Sec. 8 Cl. 8
17 U.S.C. Sec. 101 et seq

Congress enforces the rights of authors and creators through federal law. In addition, Congress has enacted “The Digital Millennium Copyright Act” (DMCA) providing for limitations on infringement liability for educational institutions that are service providers, for preventing the circumvention of technological protection measures, for promoting distance learning through digital technologies, and for maintenance and development of digital libraries to accommodate digital technologies and evolving preservation practices.

At the same time, Congress and the courts have provided that sometimes reproducing, publishing, displaying, distributing, or performing someone else’s work is not harmful to that person and that using the work is an important part of public discourse. Therefore, special exceptions from liability are permitted when:

1. Prior permission is granted from the copyright owner.

2. A license agreement has been executed.

3. The conditions for statutory limitations on exclusive rights of copyrighted works are met, such as principals related to;
   a. Fair use.
   b. Reproductions by librarians.
   c. Performances and/or displays.
   d. The TEACH Act.
   e. Computer programs.

4. The conditions for exceptions from violations of the DMCA are met.
Copyright infringement is a violation of federal law and is expressly prohibited. School district employees, volunteers and students are prohibited from copying materials not specifically allowed by the copyright law, fair use guidelines, licenses or contractual agreements, or the permission of the copyright proprietor. Any other copying must be approved by the school district’s copyright officer on a case-by-case basis.

Employees, who willfully disregard this policy, or specific provisions of the faculty copyright manual, do so at their own risk and assume all liability, including the possibility of dismissal, for persistent copyright infringement. The legal or insurance protection of the school district will not be extended to employees who violate copyright laws. In the event said employee is found guilty of violating existing copyright law, the employee will be required to remunerate the school district in the event of loss due to litigation.

3. Definitions

Copyright protection applies to original works of authorship fixed in a tangible medium of expression that can be perceived, reproduced, or communicated either directly or with the aid of a machine or device. The works include the following categories:

1. Literary works.
2. Musical works, including any accompanying words.
3. Dramatic works, including any accompanying music.
4. Pantomimes and choreographic works.
5. Pictorial, graphic and sculptural works.
6. Motion pictures and other audiovisual works.
7. Sound recordings.
8. Architectural works.

Copyright protection extends to most computer software, which is typically protected as a literary work. The author of a work of visual art may have the rights of attribution and integrity.

Copyright does not protect ideas, procedures, process, systems, methods of operation, concepts, principals, or discoveries, regardless of the form in which it is described, explained, illustrated, or embodied in the work.
Exclusive rights granted solely to the copyright owner include the right to:

1. Reproduce the copyrighted work in copies or phonorecords.

2. Prepare derivative works based upon the copyrighted work.

3. Distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending.

4. In the case of literary, musical, dramatic and choreographic works, pantomime, and motion pictures, or other audiovisual works, to perform the copyrighted work publicly.

5. In the case of a literary, musical, dramatic and choreographic work, pantomime, and pictorial, graphic, sculptural work, including the individual images of a motion picture of other audiovisual work, to display the copyrighted work publicly.

6. In the case of sound recordings to perform the work publicly by means of digital audio transmissions.

4. Delegation of Responsibility

The Superintendent or designee shall provide a faculty copyright manual for employees, students, guests, visitors and independent contractors to guide them in complying with copyright statutes, regulations, laws and this policy.

In addition, the Superintendent or designee shall provide training for employees and instructional sessions for students to assist them in complying with the copyright requirements. The faculty copyright manual shall include, but not be limited to, legal requirements of the Copyright Act, including The TEACH Act and the DMCA.

It shall be the responsibility of the Superintendent and/or designee, building principals and Technology Service Coordinator to provide leadership for proper training and for enforcement of the Copyright Act, the DMCA, this policy and the requirements provided in the faculty copyright manual.

The duties of the position of copyright officer will be performed by the Assistant Superintendent for Curriculum and Instruction. The copyright officer will be responsible for all copyright issues in the school district including, but not limited to:

1. Directing training for school district employees.

2. Being the liaison with the school district’s legal counsel.
3. Keeping centralized records regarding licensing agreements and permission statements.

4. Directing that notification of copyright legalities are placed on or near appropriate machines.

The copyright officer shall provide advice for principals and other school district employees concerning copyright law, revisions and current copyright issues. Additionally, the copyright officer will oversee the teaching of the legal, ethical, and practical problems resulting from plagiarism in all schools in the school district.

5. Guidelines

A faculty manual describing copyright legalities and illegalities will be developed and maintained. All employees will receive a copy of the manual and it will be available in school district libraries for inspection by students, parents and the general public. All employees will receive on-going in-service training regarding copyright issues.

Federal laws, cases, and guidelines pertaining to copyrights will govern the use of material accessed through the school district resources. Users will make a standard practice of requesting permission from the holder of the work, or their agent, complying with license agreements as required by school district procedures, and complying with the copyright guidelines communicated in the school district’s faculty copyright manual. Employees will instruct students to respect copyrights, request permission when appropriate, comply with guidelines in the faculty copyright manual, and follow license agreements. Employees will respect and comply as well.

Violations of copyright law can be a felony and the law allows a court to hold individuals personally responsible for infringing the law. The school district does not permit illegal acts pertaining to copyright laws. Therefore, any user violating copyright laws does so at their own risk and assumes all liability.

Violations of copyright law include, but are not limited to, the making of unauthorized copies of any copyrighted material (such as commercial software, text, graphic images, audio and video recording), distributing copyrighted materials over computer networks, unauthorized downloading of music and movies, and deep-linking and framing into the content of others’ web sites.

Finally, employees and students may not circumvent technological protection measures unless permitted by law.
References:

U.S. Constitution – U.S. Const. Art. I Sec. 8 Cl. 8


Board Policy – 000
814-AR. COPYRIGHT MATERIALS

I. Introduction
Schools are constantly involved with the use of copyrighted materials. Thus, it is important to ensure that the rights of copyright owners are not violated. Naturally, with the increased use of technology in the school setting, there are more and more opportunities for copyright law to be violated as the line between permissible use and prohibited use of copyrighted material becomes less clear to the user. It is the responsibility of the building principal to take those measures necessary to ensure that teachers and students are not violating copyright law. The penalties for copyright infringement can result in an award of up to $150,000 for each separate act of willful infringement. 17 U.S.C.A. Section 504(c)(2).

II. Guidelines
The United States Copyright Office has published the following guidelines for written material:

A. Single Copying for Teachers
A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

1. A chapter from a book.
2. An article from a periodical or newspaper.
3. A short story, short essay or short poem, whether or not from a collective work.
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

B. Multiple Copies for Classroom Use
Multiple copies (not to exceed in any event more than one (1) copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

1. The copying meets the tests of brevity and spontaneity as defined below and,  
2. Meets the cumulative effect test as defined below and,  
3. Each copy includes a notice of copyright.

III. Definitions
A. Willful infringement means that the perpetrator knew that he or she was infringing and did it anyway.
B. Brevity

1. *Poetry:* (a) A complete poem if less than 250 words and if printed on not more than two (2) pages or, (b) from a longer poem, an excerpt of not more than 250 words.

2. *Prose:* (a) Either a complete article, story or essay of less than 2,500 words or (b) an excerpt from any prose work of not more than 1,000 words or ten percent (10%) of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in “1” and “2” above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

3. *Illustration:* One (1) chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

4. “*Special*” works: Certain works in poetry, prose or in “poetic prose” which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Item III.B.2 notwithstanding, such “special works” may not be reproduced in their entirety; however, an excerpt comprising not more than two (2) of the published pages of such special work and containing not more than ten percent (10%) of the words found in the text thereof, may be reproduced.

C. Spontaneity

1. The copying is at the instance and inspiration of the individual teacher, and

2. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission and if and only if the material is sufficiently related to the curriculum being taught and the relevance of the material is time sensitive.

D. Cumulative Effect

1. The copying of the material is for only one (1) course in the school in which the copies are made.

2. Not more than one (1) short poem, article, story, essay or two (2) excerpts may be copied from the same author, nor more than three (3) from the same collective work or periodical volume during one (1) class term.

3. There shall not be more than nine (9) instances of such multiple copying for one (1) course during one (1) class term.

[The limitations stated in Items III.D.2. and III.D.3. above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]
IV. Prohibitions as to II and III
Notwithstanding any of the previous, the following shall be prohibited:

A. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or reproduced and used separately.

B. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. These include workbooks, exercise, standardized tests and test booklets and answer sheets and like consumable material. Materials, such as “Black Line Masters”, which have been purchased for this purpose, are excluded from this prohibition.

C. Copying shall not:
   1. Substitute for the purchase of books, publishers’ reprints or periodicals;
   2. Be directed by higher authority; and/or
   3. Be repeated with respect to the same item by the same teacher from term to term.

D. No charge shall be made to the student beyond the actual cost of the photocopying.

United States Copyright Office, Circular 21, Reproduction of Copyrighted Works by Educators and Librarians at 6-7 (rev. Nov. 2009) (internal references omitted).

The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material; the person using this equipment is liable for any infringement.

For more information, please see Board Policy No. 814 and its accompanying regulations.
814-AR-2. FAIR USE DOCTRINE AND REPRODUCTION-RELATED ISSUES

There are five (5) rights reserved for the copyright holder. These are defined in Section 106 of the copyright law codified in Title 17 of the United States Code as reproduction, adaptation, publication, performance, and display. Several instances where copying is acceptable are also defined. These exceptions (referred to as fair use) are in Section 107 of the U.S. Code, which states the following:

Limitation on exclusive rights: Fair use notwithstanding the provisions of Sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purpose such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. **The purpose and character of the use.** The use must be for such purposes as teaching or scholarship and must be nonprofit.

2. **The nature of the copyrighted work.** Staff may make single copies of: book chapters for use in research, instruction or preparation for teaching; articles from periodicals or newspapers; short stories, essays or poems; and charts, graphs, diagrams, drawings, cartoons or pictures from books, periodicals or newspapers.

3. **The amount and substantiality of the portion used.** Copying the whole of a work cannot be considered fair use; copying a small portion may be if stated guidelines are followed.

4. **The effect of the use upon the potential market for or value of the copyrighted work.** If resulting economic loss to the copyright holder can be shown, making even a single copy of certain materials may be an infringement; and making multiple copies presents the danger of greater penalties.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Staff may make copies of copyrighted school district materials that fall within stated guidelines. Where there is reason to believe the material to be copied does not fall within guidelines, prior permission shall be obtained from the principal. Staff members who fail to follow this policy may be held personally liable for copyright infringement.
Permitted Copies

Multiple copies, not exceeding more than one per student, may be made for classroom use or discussion if the copying meets the tests of brevity, spontaneity and cumulative effect. Each copy must include a notice of copyright.

A library or archive may reproduce one copy or recording of a copyrighted work and distribute it if:

1. Reproduction or distribution is made without any purpose of direct or indirect commercial advantage.

2. Collection of the library or archives is open to the public or is available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

3. Reproduction or distribution of a work includes a notice of copyright. Copies of materials for face-to-face teaching activities involving performances or displays made by students or instructors, religious services, live performances without commercial advantage, and the use of instructional broadcasts are permitted.

Prohibited Copies

The law prohibits using copies to replace or substitute for anthologies, consumable works or compilations or collective works. Consumable works include workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publisher’s reprints or periodicals; nor can they repeatedly copy the same item from term to term. Copying cannot be directed by a “higher authority”; and students cannot be charged more than the actual cost of photocopying.

Schools must be licensed to play copyrighted music where the performer is paid or admission is charged, even if the admission is used to cover refreshment costs.

Off-Air Recordings

Broadcast programs may be recorded off-air simultaneously with broadcast transmission and retained by the school district for a period not to exceed forty-five (45) consecutive calendar days after the date of recording. After this period of time, all recordings must be erased or destroyed immediately.

Program recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period.

After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for evaluation purposes by the teacher.
Off-air recordings may be made only at the request of and use by individual teachers and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

Off-air recordings need not be used in their entirety; but they may not be altered from their original content and may not be physically or electronically combined or merged to constitute teaching anthologies or compilations. Such recording must include the copyright notice on the broadcast program as recorded.

Videotapes/Optical Discs/Distance Learning/Audio-Visual Delivery Devices

A library, archive, or media center may reproduce one copy of a recording of a copyrighted work and distribute it in accordance with provisions of law. Recorded copies of copyrighted programs owned by a staff member or another person or a copy of a rental program are considered illegally made and may not be used for instruction purposes unless its use meets the fair-use test.

Rental videocassettes, laser discs and other optical media with the “home use only” warning label may not be used in a classroom, school assembly, or club unless specifically covered in the rental agreement.

Multimedia use of copyrighted material falls under the guidelines of the medium being used (e.g., computer, video, audio).

Distance learning is subject to copyright guidelines if copyrighted material is copied or recorded during a transmitted lesson.

Closed-circuit distribution of a copyrighted work to classrooms in a school or campus is legal, as long as the transmission is used for instructional activity and not entertainment.

Off-air taping of broadcast programs is permitted to educational institutions for programs broadcast to the general public. Pay cable TV services and satellite broadcasts available at an extra charge are not allowed without permission form the copyright owner.

Computer Software

Copies of software including those downloaded via modem, other than “public domain” software, cannot be made without the permission of the vendor or copyright owner.

Illegal copies of copyrighted programs may not be made or used on school equipment.

A computer program may be legally copied only for the following reasons:

1. It is created as an essential step in the use of the computer program, such as automatic copying into memory when a program is loaded.

2. It is created as a backup or archival copy only. All backup and archival copies must be destroyed in the event the original program is erased or removed from inventory.
Backup or archival copies may not be used simultaneously with the original program.

Copying a copyrighted program from a computer hard drive to a portable data storage device, for use as an additional copy, is illegal.

Networking computer software is illegal if the legal multiple user or site licenses have not been acquired from the vendor or copyright owner. Networking is the use of a single program in a single computer that is connected to other computers, permitting the program to be used simultaneously in more than one computer.

Reproduction of original computer software manuals is illegal, and copying must abide by the fair use guidelines.

The school district will provide expenditures for software as a budgetary item. Priority will be given to software that supports and/or is critical to curriculum or operating needs. All other software will be purchased if reasonable need is established and/or financial resources allow such purchase.

Renting or leasing original copies of software by individuals without the express permission of the copyright owner is illegal.
814-AR-3. COPYRIGHT PERMISSION

The following copyright contact information is provided to assist staff members in complying with copyright requirements. Staff members should contact the PVSD Office of Curriculum and Instruction for additional information or assistance.

**Book Excerpts or Journal Articles**

Copyright Clearance Center, CCC Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923, Phone 978-750-8400, [www.copyright.com](http://www.copyright.com).

**Images**


Other professional photography organizations.

**Articles in Periodicals, Magazines, or Newspapers**

UnCover, The UnCover Company, 3801 East Florida Avenue, #200, Denver, CO 80210, Phone 303-758-3030. UnCover handles rights for the Publication Rights Clearinghouse, a collective licensing agency representing such writers’ groups as: The National Writers Union, National Office, 113 University Place, 6th Floor, New York, NY 10003, Phone 212-650-7616, [www.nwu.org](http://www.nwu.org); and the Society of Children’s Book Writers and Illustrators, 8271 Beverly Blvd., Los Angeles, CA 90048, Phone 323-782-1010, [www.scbwi.org](http://www.scbwi.org), among others.

**Musical Works**


To record and distribute a musical composition recorded by someone else, or synchronize music with visual images, contact:


Music Research Consultants’ web page, 8344 Kirkwood Drive, Los Angeles, CA 90046, Phone 323-650-7616, www.musicresearch.com, contains links to publishers, record labels, music rights agencies, and more.

Plays and Dramatic Works


News Archives

Check the World Wide Web; many of the largest news organizations have placed archives of their back issues online.

Movies

The Motion Picture Licensing Corporation, www.mplc.com, grants public performance rights. If known, the producer may also be contacted directly.

Software

Contact the software’s manufacturer at the address given on the licensing agreement.

Written Permission

Once the copyright owner is identified, initiate contact by writing a letter, calling, or e-mailing. Seek written permission that clearly describes its scope.

Changed Owner

The apparent copyright owner may not be the real copyright owner. The U.S. Copyright Office of Internet Resources, www.copyright.gov, provides online searching of its registration records and performs professional searches for a fee.
Confirming Permission

Whenever it is unclear who the owner is, or if the owner is a legal entity (business or organization), be sure that the person giving permission is authorized to do so.

Unidentifiable or Unresponsive Owner

If the publisher or copyright owner is unknown, The Literary Marketplace, for books, (www.literarymarketplace.com) or Ulrich’s International Periodicals, for journals, (www.ulrichsweb.com) may help.

University of Texas at Austin’s Harry Ransom Humanities Research Center (www.utexas.edu) provides helpful information about how to find copyright owners.

A copyright protects materials regardless of whether the owner cares about protection or not. Therefore, if required permission cannot be obtained, the work may not be used.