



# University Libraries - Course Reserves

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### I. REASON FOR THIS POLICY

The University Libraries provide a course reserves service through which faculty may make certain instructional materials available to students. Relative to U.S. copyright law, this policy describes the guidelines and procedures for using the course reserves service. The University Libraries will assist instructors in making library-owned materials accessible for their classes; however, University Libraries is not responsible for enforcing copyright compliance. The policy is based on the University Libraries’ best effort to comply with current interpretations of copyright law and case rulings related to course reserves.

Library staff, when reviewing materials for Course Reserves, balance the University’s teaching mission with Fair Use principles. Hence, faculty are encouraged to submit Course Reserve requests well before they are needed by students. Timely submission ensures that both teaching faculty and library staff can discuss questions, and determine a course of action that serves students, faculty, and the university’s legal responsibilities.

**Each faculty member is responsible for complying with copyright law in his/her teaching, research, and service activities.**

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### II. STATEMENT OF POLICY

The University Libraries provide a course reserves service (Course Reserves) for faculty to make certain copyrighted materials that students are not required to purchase or lease available to the students of a particular course. Course Reserves include both physical reserves for book and media materials held by the University Libraries and materials in electronic format. Students pickup and checkout physical reserve materials from the Circulation Desk in I.D. Weeks Library.

Electronic reserves are made available in the Desire2Learn (D2L) Learning Object Repository (LOR). Information on what materials are acceptable, not acceptable without permission, or not appropriate for Course Reserves are outlined below.

### *Acceptable*

Fair Use is a principle within U.S. Copyright Law that allows the limited use, for limited purposes, of copyrighted material without permission of the copyright holder. Four factors are weighed in the determination of whether or not a particular use is fair:

- Purpose and character of the use (commercial use or nonprofit/educational use);
- Nature of the copyrighted work, i.e. fiction or non-fiction, published or unpublished;
- Amount and substantiality of the portion of the work used in relation to the work as a whole;
- Effect of the use upon the potential market for or value of the copyrighted work.

Faculty should consider Fair Use before submitting the request to place materials on Course Reserves. A reading requested by a faculty member may be placed on Course Reserves if: 1) the proposed use meets the criteria of Fair Use as evaluated by University Libraries staff, or 2) evidence documents that the rights holder (often the publisher) has given permission for the proposed use of the materials. The specific treatment of acceptable materials depends upon the format, amount, proposed use, and copyright status of the materials.

Entire books held in the collections of the University Libraries may be placed on physical reserves. If a requested book is not owned by the University Libraries, the appropriate subject liaison librarian will rush order a copy as long as the item fits into the collection development priorities for that area.

Required textbooks may be placed on physical reserves for limited periods of time at the discretion of the University Libraries. However, the University Libraries do not typically purchase textbooks, and thus textbooks placed on reserves would typically be faculty-owned copies. Portions of a book or journal physically owned by the University Libraries will be scanned and placed in the LOR if the proposed use fulfills the criteria to be considered a "Fair Use."

Copies of articles or other electronic materials available through the subscription resources licensed by the University Libraries may not be placed directly into D2L. Instead, links to these articles may be placed in D2L courses. Faculty may contact Course Reserves staff if they need assistance with the linking process.

Portions of copyrighted works that the Library will place in the LOR will not exceed:

- One chapter or ten percent, whichever is less, of a book with fewer than ten chapters or a book that is not divided into chapters.
- One chapter of a book with ten or more chapters.
- A single article from an issue of a periodical.
- One chart, graph, diagram, drawing, map, or picture per book or per journal issue.

These above amounts may not always be appropriate. Such cases are typically related to the concept known as “Heart of the Work.” In some cases, and relative to the Amount and Substantiality factor in the Fair Use doctrine, using even a small amount of a copyrighted work may be determined not to be fair because the selection is an important part—or the “heart”—of the work. University Libraries staff will consult with members of the faculty, as needed.

Faculty may place works they have created and for which they hold copyright, such as lecture notes and test questions, directly into their D2L courses without going through Course Reserves. Course Reserves’ staff will assist in managing these materials, if needed.

*Not Acceptable Without Written Permission of the Rights Holder*

Workbooks, practice tests, other consumable or individualized items produced commercially may not be placed on Course Reserves.

For electronic reserves, written permission must be obtained from the rights holder to use the material if the portion(s) of a book owned by the University Libraries do not meet the criteria of Fair Use, or if the book/journal issue is not owned by the University Libraries.

Items obtained via interlibrary loan may not be placed on physical or electronic reserve without the copyright owner’s permission. Interlibrary Loan is a service based on the premise of individual use.

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III. .DEFINITIONS

Copyright – Copyright protects a work of authorship fixed in any tangible medium of expression from unauthorized reproduction. Copyrighted material may include, but is not limited to, computer software, artwork, music, technical articles, books and other literary works. Copyright provides protection for the expression of an idea, but not the idea itself.

Copyright Owner - “With respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.” 17 U.S.C. 101.

Desire2Learn (D2L) – The course management system used by the University of South Dakota that provides a secure, online interface maintained for students in courses to interact with course materials and activities.

Electronic Reserves – Items that are loaded by Course Reserves into D2L Learning Object Repository (LOR) and linked to from other D2L courses.

Fair Use- A principle within U.S. Copyright Law that allows the limited use, for limited purposes, of copyrighted material without permission of the copyright holder. Four factors are weighed in the determination of whether or not a particular use is fair (<https://www.copyright.gov/fair-use/>):

- Purpose and character of the use (commercial use or nonprofit/educational use);

- Nature of the copyrighted work, i.e. fiction or non-fiction, published or unpublished;
- Amount and substantiality of the portion of the work used in relation to the work as a whole;
- Effect of the use upon the potential market for or value of the copyrighted work.

Heart of the Work – In some contexts and relative to the Amount and Substantiality factor in the Fair Use doctrine, using even a small amount of a copyrighted work may be determined not to be fair because the selection is an important part—or the “heart”—of the work.

Learning Object Repository (LOR) – A secure, online storage area within the D2L Course Management System where copyrighted materials (with permission) are loaded by Course Reserves. Instructors link to the items from within their D2L course, so enrolled students can access them.

License – A contract between a copyright owner or the owner’s authorized agent, such as a third-party giving permission to use a work, usually with the payment of a fee or royalty.

Permission – An agreement from a copyright owner allowing another party to exercise one or more of the exclusive rights provided the copyright owner under the Copyright Law.

Physical Reserves – Items in physical formats, such as videos, DVDs, and books, stored at the Circulation Desk at the request of faculty for student use in a course. Items circulate for short periods (2 hours, 4 hours, 24 hours, 3 days, or 1 week) as designated by the faculty member.

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#### IV. PROCEDURES

Faculty must complete a Course Reserves Request Form located online at <https://www.usd.edu/Academics/Libraries/ID-Weeks-Library/Library-Services/Course-Reserves> detailing information for each item they wish to place on course reserves. **Faculty members are encouraged to submit course reserves requests as soon as possible to allow time for processing, and, if necessary, purchase and receipt.** Requests will be processed in the order in which they are received and as quickly as possible, staff time permitting.

Course Reserves staff will research the availability of each item and communicate with faculty any other factors regarding each item’s proposed use.

Course Reserves staff will request copyright permission for materials that faculty wish to place on Course Reserves. University Libraries will pay permission fees of up to \$75 per course. If the fees are over \$75, the faculty member will be contacted to decide if he or she wishes to pay the fees from another source (such as departmental funds) or to select another item.

Items will be placed on electronic reserves while permission is being sought, but will be removed immediately if permission is not granted.

**Please allow as much time as possible for permissions to be processed and obtained.** It takes approximately one month to negotiate permission from the rights holder. Requests will be processed in the order in which they are received and as quickly as possible, staff time permitting.

Materials on electronic course reserves will be made available for one semester via the LOR in D2L. At the end of the semester materials on electronic and physical reserves will be removed. Faculty are encouraged to contact Course Reserves by email ([eres@usd.edu](mailto:eres@usd.edu)) or phone (605-677-6082) if they have questions or concerns.

V. RELATED DOCUMENTS, FORMS AND TOOLS

Course Reserves page	<a href="https://www.usd.edu/Academics/Libraries/ID-Weeks-Library/Library-Services/Course-Reserves">https://www.usd.edu/Academics/Libraries/ID-Weeks-Library/Library-Services/Course-Reserves</a>
USD Copyright Information	<a href="https://www.usd.edu/Terms-of-Use">https://www.usd.edu/Terms-of-Use</a>
Course Reserves LibGuide	<a href="http://libguides.usd.edu/reserves">http://libguides.usd.edu/reserves</a>
Course Reserves Request Form	<a href="https://www.usd.edu/Academics/Libraries/ID-Weeks-Library/Library-Services/Course-Reserves">https://www.usd.edu/Academics/Libraries/ID-Weeks-Library/Library-Services/Course-Reserves</a>
University Libraries Copyright Information for Course Reserves	<a href="http://libguides.usd.edu/c.php?g=752851&amp;p=5393358">http://libguides.usd.edu/c.php?g=752851&amp;p=5393358</a>
Linking Directly to Resources: Individual Articles and Records LibGuide	<a href="http://libguides.usd.edu/c.php?g=752851&amp;p=5395301">http://libguides.usd.edu/c.php?g=752851&amp;p=5395301</a>
Streaming Media	<a href="https://td.usd.edu/TDClient/33/Portal/KB/ArticleDet?ID=2473">https://td.usd.edu/TDClient/33/Portal/KB/ArticleDet?ID=2473</a>
Fair Use Checklist	<a href="https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html">https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html</a>
U.S. Copyright Office	<a href="https://copyright.gov/">https://copyright.gov/</a>
University Libraries Liaison Librarians	<a href="https://libanswers.usd.edu/">https://libanswers.usd.edu/</a>