

Chapter 44

Fair Use, Copyright, and Academic Integrity in an Online Academic Environment

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ABSTRACT

Technology has changed the way Fair Use is determined in an educational environment. Administrators face issues of ownership and copyright when making instructional materials available electronically. Planning for copyright issues, negotiating fair contracts with faculty and vendors, collaborating with stakeholders, and re-thinking Fair Use policies for online learning must occur when transitioning to an electronic library. Instructors and school leaders must understand Fair Use and the legal issues involved. They must deal with issues of academic integrity in an electronic environment and offer instruction on how to avoid student and faculty miss-use of materials. Ownership of intellectual property should be clearly defined to avoid conflict between online instructors and administration. Administrators must understand fair use and copyright issues and create policies and plans for dealing with issues that will inevitably arise as they work with course materials, faculty, and students in an online environment.

INTRODUCTION

Technology has opened the door to greater educational opportunities for all students than has ever existed before. Globally, countries are promoting the distribution and use of technology in education (Baldwin, Mehlinger, Powers, & Williams,

2002). In Europe, e-learning has been identified as a tool that will improve competitive ability in today's knowledge economy (Wallace, 2006). In the United States, roughly 4.6 million students in higher education were enrolled in an online course in the fall of 2008 (Allen & Seaman, 2010). The United Nations (1948) stated that access to education should be a universal human right according to the Universal Declaration of Human

DOI: 10.4018/978-1-4666-2136-7.ch044

Rights. Online courses offer the opportunity for anyone regardless of geographical, economic, or physical restrictions to get an education.

Universities benefit by offering e-learning. DiRamio and Kops (2004) noted that universities are able to include greater numbers of students in online courses often with less expense to the university than in a traditional classroom. The initial expense to the university in creating an online course can be high due to the need to provide institutional support e.g. web designers, course management software, instructional technology specialists. Once the course is functional the costs associated with maintaining it should decrease. In a traditional course a classroom would need to be provided, if at a distance, mileage would be paid to instructors, and ongoing support such as photocopying, and Internet access would be considered as part of the total cost. A traditional classroom is limited by the amount of space available for seating. An online classroom does not have the same issue. Kranch (2008) noted that financial efficiency on the part of the university becomes more important as state budgets continue to decline. Offering online instruction has the potential of benefit of increasing a university's revenue due to greater student enrollment (Malonis, 2002a). E-learning offers a convenient alternative for students who are unable to relocate, have work or family responsibilities, or who suffer from a disability.

In order to ensure the success of their institution, many administrators attempt to accommodate and promote online learning. Gayton (2009) conducted a series of interviews with university administrators to discover that the vast majority of those studied support and promote online courses and had noticed an increase in the number of students taking online courses. With the promise of online learning there are also challenges that administrators must consider. The administrators that Gayton interviewed were concerned with preserving the quality of education in an online classroom and ensuring academic integrity among

online students. Along with academic integrity, administrators face having to ensure that materials are used appropriately and obey copyright law while also taking advantage of free use to enhance education and research for students and faculty. Complicating matters are varied interpretations of free use in an electronic environment, attribution of ownership of materials, and institutional support for course creation. Creating policy and specifying contractual obligations is necessary in order to prevent ill will and costly litigation.

Training in how to prevent plagiarism and how to function effectively in an online environment should be offered both for students and teachers. It is vital for those working with distance courses in an administrative capacity to understand the issues and legal foundation of fair use and copyright as it pertains to e-learning. Without information on how fair use is applied in an electronic environment, administrators will risk conflict with teaching faculty, possible litigation through mistakes in ascribing fair use, and may add to the confusion felt by educators and students on how to apply fair use guidelines when using copyrighted works.

BACKGROUND

Businesses and educational institutions have adopted new technologies and revitalized existing technologies to support online students. Some institutions have responded to their mission of opening education to all by offering course materials to the general public without cost as with the MIT Open Courseware Project (Blanchard, 2010; Caswell, Henson, Jensen, & Wiley, 2008). Electronic learning has made the ownership of intellectual property less clear. "Web-based courses and distance learning courseware require more technical support, faculty setup, and campus resources. As a result, universities are increasingly becoming de facto courseware owners" (Talab, 2007, p. 9).

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