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For decades, educators have practiced and lived by the mantra of “borrow, cheat, and steal” in terms of using external materials; however, this practice is not only heavily frowned upon, but in violation of copyright and fair use laws. Cindy Kozumplik and John Kreutziger (2010) found that “Most educators may think that anything is fair game to use in regard to copyright when it comes to higher education,” when it most certainly is not (p.21). Everyone should have a solid understand of copyright and fair use laws as ignorance is not bliss when it comes to knowing these guidelines. Cornell University, along with other higher education institutions, have created “Checklist for Conducting a Fair Use Analysis Before Using Copyrighted Materials” to help both students and educators know and comply with the legal practices of fair use. Students and faculty members can use such checklists as a tool to help determine whether the intended use is protected under copyright and fair use policies. Fair and responsible use is something everyone needs to be familiar with. As rapid changes and advancements in technology, telecommunications, and society continue, it is essential that we become familiar with and knowledgeable about fair and responsible use standards. These changes are resulting in revisions to and amendments of the original Copyright Act of 1976 and applies to all of us using the information that is readily accessible in this tech driven time (Marley, 1999, p. 371). Judith Marley (1999) reminds us that “As the digital age progresses, the doctrine of fair use will continue to serve as a necessary fulcrum between the rights of creators and the rights of consumers. Although its definition undoubtedly will expand to encompass electronic means of expression, the fundamental mission of this doctrine, to provide a balance between proprietary control and free use will remain unchanged” (p. 371). Fair and responsible use is not a suggestion. It is a law that all will be held accountable for and should therefore know and practice. It is essential that educators recognize that they are not blindly protected under education use, but they must also reflect and analyze whether the use of external materials is in compliance with fair and responsible use.

Ethical and Legal Considerations

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Abstract

With technological advancements everything we could possibly need is literally at our fingertips; however, not everything is fair for us to access. This paper discusses the ethical and legal considerations facing instructional designers. It is absolutely vital that instructional designers abide by fair use policies and when utilizing technology to deliver instruction. This paper summarizes the fair use policy that instructional designers must practice.

Ethical and Legal Considerations

Originality is always best; however, there are times when the use of other resources or references are necessary. Using resources and references from others is permitted as long as the ethical and legal considerations of the fair use policy are followed. The fair use policy is outlined in the United States copyright law as a doctrine that explains the parameters for using the works of others in an ethical manner. Fair use is not always clearly defined or easy to understand as there are no clear cut black and white rules about what is permitted and what is not.

When using, referring, or referencing another body of work whether it is the entire piece or a small portion of a piece, individuals should provide context and commentary for the purpose of drawing in the other work (Deshpande, 2013). Oftentimes people feel that they are protected as long as they acknowledge the work of others; however, this is not the case. When bringing in another source, it is best to use only what is needed and to provide context as to why it is being used. It is essential that the materials used is used with integrity and not used with malicious intent to destroy or take credit of other people's hard work. Always give credit where it is due and identify all sources used along with a link to the original. When using images, try and obtain permission of use. If not, refrain from using the full-size image and resort to using just the thumbnail image (Deshpande, 2013). And similar to the guidelines of linking the text, provide the link where the image was found.

It is essential that educators and instructional designers abide by the copyright laws in their design. Designers should notate ethical and legal consideration when mapping out a course as seen here (<http://bit.ly/2qcFjG6>). Doing so will allow designers to see if content/task/assignment is created in-house or borrowed from another source. It will also require designers to

assess the safety of its use as well to ensure ethical and legal consideration. While borrowing from the works of others is a common practice in education and instructional design, it is essential to keep in mind that copyright laws apply to copyrighted materials even when they are being used for educational purposes (Culatta, 2015). Fair use can be difficult to understand, but it is vital that educators and instructional designers protect themselves by becoming well versed with the US copyright laws relating to fair use. It is not always clear what counts as fair and what constitutes as infringement, but it is part of our jobs as an educator and instructional designer to know the difference and practice fair use.

References

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