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LEGAL RISKS AND RESPONSES DRIVEN BY GENERATIVE ARTIFICIAL INTELLIGENCE IN HIGHER EDUCATION

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ABSTRACT

Generative AI is transforming the traditional education model while providing intelligent technology support for college teachers and students. However, the application of this technology in education is accompanied by multiple legal risks: such as the conflict between data privacy protection and personalized data collection, the contradiction between the unclear ownership of intellectual property rights and the ownership of generated content, the dilemma of unclear responsible subjects and the division of legal responsibilities, and the challenge of academic integrity under the intervention of technology. To circumvent these risks, privacy should be protected through authorization control and data minimization, make clear ownership rules for generated content in intellectual property governance, establish a multisubject responsibility allocation mechanism, define legal boundaries, and maintain educational order by strengthening academic integrity mechanisms and ethical frameworks to balance technological innovation and legal norms and promote sustainable higher education.

KEYWORDS: Generative Artificial intelligence; higher education; legal risks; regulatory pathways

1. INTRODUCTION

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Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

In 2022, the US agency OpenAI released the conversational AI model ChatGPT. The model quickly gained attention thanks to its ability to support consecutive rounds of conversations and context understanding. In 2024, OpenAI launched the video generation AI model Sora again, expanding the application of generative AI from the fields of text and images to video. Pushing AI technology into a new stage and becoming an important technological engine for the fourth industrial revolution. Technically, both ChatGPT and Sora are essentially large language models built on Transformer models. Take ChatGPT, which is equipped with GPT-3, as an example, with as many as 175 billion training parameters. After obtaining parameters and data, it understands and records patterns and patterns in text or image data through self-supervised learning, supported by self-attention mechanisms. Therefore, when users interact with ChatGPT or Sora, they first convert the text or images input by users into machine language (i.e., internal language), then complete "text chain" generation based on the frequency of data associations obtained in the pre-training stage, and finally convert these generated machine languages into target language. It is then fed back to the user. In order to prevent the answers given from lacking human logic, ChatGPT and Sora also fine-tune the data based on preset or actual conversational information to ensure the rationality and coherence of the output. ChatGPT, with its outstanding data parsing and text generation capabilities, has demonstrated exceptional support and application value in multiple aspects of education (Khosravi, Viberg & Kovanovic et al 2023). Specifically, during the teaching preparation stage, ChatGPT can help teachers expand their teaching content, quickly generate lesson plan texts, and tailor personalized learning materials and plans for students. Once in the classroom teaching stage, ChatGPT, with its vast data reserves and quick response capabilities, provides real-time Q&A services for teachers and students, and guides students to think deeply and discuss. Sora, with its powerful visual data processing capabilities and image generation technology, transforms static data into dynamic videos, greatly enriching the form of teaching materials. For example, in a legal history course, Sora can reproduce historical context, and in a criminal law class, it can transform case content into video form to deepen students' understanding of knowledge points.

The widespread application of generative artificial intelligence will empower the field of education and facilitate the transformation of education from the traditional "teacher-student" binary structure to the "teacher-machine-student" ternary structure, injecting new impetus and vitality into the future development of education. However, Artificial Intelligence Generated Content (AIGC) technology is a double-edged sword in transforming the way of education. On the one hand, AIGC technology is resource-dependent, supported by a large number of resources such as course materials, academic works and user data, and improper use may pose the risk of copyright infringement or personal information infringement. On the other hand, AIGC technology has a strong ability to learn and can imitate human thinking patterns to generate content, especially in creative text, images or videos. But how to define the attributes and rights of these products, and how to ensure the orderly development of the technology while protecting



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

the rights of original authors, are issues that remain unclear in the current legal field. Based on the operating principles of AIGC technology, this article periodically identifies and analyzes the legal risks of AIGC subclasses such as ChatGPT and Sora when applied in educational scenarios. This paper attempts to systematically propose measures to mitigate legal risks arising from the application of AIGC technology in education from aspects such as technical regulations, principal guidance, and rule constraints. On the one hand, balance the relationship between access and use of educational resources and the protection of copyright and personal information. On the other hand, define the attributes and rights ownership of AIGC technology products, ensuring the legal use of the technology while taking into account the rights protection needs of technology developers, authors of original works, and technology users.

2. Generative AI drives the legal risks of higher education

2.1 The "data concerns" of technology application

Although the extensive application of AIGC in higher education has promoted personalized education and intelligent management, its collection, storage and sharing of massive amounts of data have also raised privacy protection, data security and sharing compliance risks, which pose a potential threat to the personal information of college students, academic achievements and the reputation of educational institutions. Therefore, analyzing the data governance challenges of AIGC in higher education is crucial for building a secure and compliant educational ecosystem.

First, the risks of data collection and privacy protection. AIGC provides personalized support by collecting and analyzing multi-dimensional data of college students, mentors, and educational administrators. These data cover sensitive information such as learning behavior, course grades, and research progress. However, the wide range of data collection poses challenges to privacy protection. First, the lack of transparency and privacy protection may lead to data being overused or used for improper purposes, in violation of the principles of legality and transparency under the Personal Information Protection Law of the People's Republic of China. Secondly, the transfer of data across platforms and systems increases the difficulty of privacy protection, especially when data is transferred between multiple platforms, where different platforms may have different data protection measures, increasing the risk of leakage and abuse. Finally, AIGC relies on complex algorithms to provide personalized support for college students, but the "black box" nature of the algorithms and training data bias can lead to unfairness and affect educational equity. For example, data that is biased towards a particular field may limit access to resources for interdisciplinary students.

Second, data storage and security risks. The Cyber security Law of the People's Republic of China requires



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

operators of critical information infrastructure to store personal information and important data within the country, and strict assessment is required for cross-border transmission. However, cross-border cloud services and international cooperation in AIGC applications complicate the compliance of data storage and circulation. Academic data of college students may be transferred across borders, and if the relevant regulations are not adhered to, privacy rights and data sovereignty disputes will arise. Cross-border data flows increase the risk of data breaches, especially when data is stored in multiple countries, and it becomes difficult to reconcile the compliance requirements of each country. In addition, cloud storage architectures increase data security risks. Academic data of college students, if stored in the cloud, could be leaked or tampered with due to system vulnerabilities or hacking. These risks are particularly prominent in cross-border data flows, where failure to comply with national storage and transmission requirements can lead to information leakage, and the large datasets and complex algorithms of AIGC increase the difficulty of security management.

Third, risks in the use and sharing of data. The application of AIGC promotes personalized education, but it also brings legal risks of data abuse and reuse. First of all, data sharing may infringe upon personal privacy rights and data autonomy, especially when data is shared inadequately protected, which could lead to privacy breaches. Academic data of college students, if not effectively encrypted, can be accessed illegally or misused. In addition, the complex processing procedures and global partnerships of AIGC systems make it difficult to guarantee the legality and transparency of data sharing, increasing the difficulty of legal compliance. Secondly, data sharing may affect educational equity. The reliance of AIGC algorithms on data quality and size may generate algorithmic bias, which in turn affects the fairness of academic assessment. For example, uneven or biased training data may lead to unfair allocation of resources for some students. Such bias not only affects academic opportunities, but may also exacerbate the imbalance of social resources, violate the principles of educational equality and fair competition, and increase legal risks. Finally, the opacity of data sharing increases the difficulty of legal regulation. The cross-border circulation of educational data involves data protection rules in different jurisdictions. If the data is used for commercial purposes beyond the scope of education without explicit consent, it may violate the "data minimization principle" and the "purpose limitation principle" in the Personal Information Protection Law of the People's Republic of China, increasing legal and ethical risks.

2.2 "Ambiguity of property rights" in knowledge creation

In higher education, the widespread application of AIGC has promoted the efficiency and form innovation of knowledge creation and dissemination, but it has also brought about the problem of "ambiguous property rights". This problem is mainly manifested in the unclear ownership of the generated content, the ambiguous definition of academic and technical roles, and the controversy over the applicability of the intellectual property protection system to AIGC content. The following explores its impact on higher



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

education from three aspects: ownership of intellectual property rights, legal protection models, and academic norms and ethical controversies.

First, the risks associated with the ownership of intellectual property. The issue of ownership of AIGCgenerated content is particularly prominent in higher education, especially in essay writing, presentation of academic achievements, and curriculum design. AIGC-generated content is often produced through complex algorithms and data processing, lacking the "originality" in the traditional sense. The current copyright law defines a creator as a natural person with independent thoughts and emotions, but it is difficult to define the subject qualification for creating AIGC-generated content. For example, when college students use AIGC to generate some materials for their papers, it is difficult to determine which content is considered "independent creation" by the students and which materials are considered "reprocessing" at that time (Cress & Kimmerle 2017). This unclear attribution may not only lead to copyright disputes, but also confuse the division of academic responsibility. In addition, AIGC-generated content often lacks the ability to label the source of data, which may hide the intellectual property rights of unauthorized third parties. If college students cite such content in their papers or projects, it may unintentionally lead to infringement claims. These risks are particularly prominent in higher education, which emphasizes originality and academic integrity.

Second, the issue of the applicability of the legal protection model. There is a clear controversy over the legal protection applicability of AIGC content, which poses a challenge to the creation and dissemination of knowledge in higher education. The traditional copyright law's requirement for "originality" makes the protected status of AIGC-generated content uncertain (Lei, Wang & Wang, et al 2017). If AIGC content is perceived as lacking originality, it may automatically enter the public domain for free use by the academic community. While this open model lowers the legal barriers for college students to access resources, it may also cause educational institutions to invest less in high-quality AIGC resources. At the same time, commercial institutions may abuse the content, undermining the non-commercial sharing goals of academic resources. Instead, if AIGC-generated content is copyrighted, college students will have to bear high licensing costs when using it. For example, if college students use protected AIGC-generated content in course projects or papers, they may have to pay fees or face complex licensing procedures, increasing the economic and legal burden of academic creation. This pattern may impede knowledge sharing and limit college students' access to AIGC content at low cost and with flexible use.

Third, academic norms and ethical disputes. The application of AIGC in college student education also faces challenges from academic norms and ethical issues. The first is the issue of identifying the source of the generated content. Aigc-generated content lacks the clear source and originality identifiers found in traditional academic creation. When college students cite such content in papers and academic projects,



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

they may cause academic misconduct due to unclear identifiers. Secondly, AIGC may undermine the academic originality of college students. Relying on AIGC-generated content may lead students to neglect independent thinking and research innovation, reducing the quality of education and the depth of academic achievements. Finally, the ambiguity of accountability makes it difficult to define the responsible party when there are errors or ethical controversies in AIGC-generated content. For example, if AIGC-generated academic content is misleading, there is no clear law to determine whether the responsibility lies with the student, the educational institution, or the algorithm developer. This ambiguity may have a negative impact on the healthy development of the academic ecosystem.

2.3 The "fog of responsibility" in legal regulation

The extensive application of AIGC in higher education provides support for the generation of academic content and educational innovation, but its high autonomy and complexity also bring difficulties in defining legal liability and regulation.

First, there is the risk of defining the principal responsibility. In higher education, AIGCs are widely involved in writing papers and generating academic materials, and their high autonomy poses challenges to the traditional legal definition of responsible subjects. Typically, legal liability relies on the principle of "direct actor", but the content generated by AIGC is driven by algorithms and involves multiple subjects such as platform providers, teachers, and students. For example, when college students use AIGC tools to generate some content in their thesis writing, there is still a lack of clear legal basis as to whether the responsibility should be borne by the user (the student), the supervisor (the mentor), or the platform provider when there are issues such as plagiarism, academic misconduct, or copyright infringement in the content it generates are difficult to be clearly attributed within the current legal framework. Especially in higher education, the positioning of students as core creators and the attribution of rights and responsibilities for AIGC-assisted generated content are difficult to define, further increasing the complexity of liability determination.

Second, the reasonableness of responsibility allocation. The application of AIGC in college student education involves multiple responsible parties, including educational institutions, technology platforms, mentors and students, etc. Each party has different obligations regarding the supervision and use of the generated content. How to effectively and reasonably allocate the responsibilities of each subject has become a core legal issue in the application of AIGC. For example, how should legal liability be allocated when college students unintentionally violate academic norms by using content generated by AIGC? If the use of AIGC by colleges and universities is unregulated, resulting in quality issues with the generated content or causing infringement, should they be held accountable? The current law does not provide



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

sufficient guidance on these issues. On the one hand, an excessive concentration of responsibility on colleges or students may increase their legal risks and compliance costs and reduce the acceptance of AIGC tools in education; On the other hand, a complete exemption from the platform provider's responsibility could also lead to a lack of due responsibility among technology developers regarding algorithm quality and content generation. Therefore, the law needs to establish a reasonable framework for the allocation of responsibility among platforms, universities and users.

Third, the lag of regulatory measures. The regulation of AIGC technology by laws and regulations is clearly lagging behind, leaving educational institutions facing compliance challenges in practice. The current law lacks systematic provisions on the legality, authenticity and compliance of generated content, making it difficult for educational institutions to effectively avoid potential risks when managing and using AIGC. For instance, it is still unclear how universities should be responsible for review and supervision when they use AIGC to generate papers involving false information, copyright infringement or academic misconduct. In addition, due to the lagging regulatory standards, educational institutions have to rely on internal rules to regulate the use of AIGC, which increases compliance costs and may cause confusion due to inconsistent standards. For example, different universities have different standards for quality requirements and accountability for AIGC-generated content, which may lead to inconsistencies in academic exchanges and cooperation. This lag further amplifies the legal and technical risks, not only weakening the university's trust in AIGC, but also potentially hindering the in-depth application of the technology, adversely affecting academic quality and the security of outcomes.

3. Risk mitigation: Legal risk regulation pathways for generative AI applications in higher education

3.1 Alleviating data Concerns: Risk management and Data governance

First, data risk management. The first step is to clarify the division of responsibilities. Colleges and universities should define the responsible parties in the use of AIGC and define the scope of responsibility through contracts or agreements. The platform provider should be directly responsible for technical glitches and data breaches, and students and mentors should comply with the university's AIGC usage regulations. In addition, establish an internal review mechanism to regularly assess and train users to ensure that the application of AIGC complies with safety and compliance requirements. This accountability mechanism provides a basis for potential legal disputes and raises the awareness of data security among all parties. Secondly, implement the classification and grading management of sensitive data and paper drafts (Li & Wang 20223). Colleges and universities should adopt classified and graded management measures to ensure that the input and transmission of sensitive data comply with security regulations. For example, strictly establish data authorization agreements to ensure that only necessary



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

data enters the AIGC system. At the same time, use technologies such as data encryption and differential privacy to reduce the risk of data leakage or misuse and protect students' privacy and academic achievements. Finally, real-time monitoring and legal compliance review. The rapid development of AIGC technology requires universities to monitor the usage process in real time and conduct dynamic reviews. Third-party review mechanisms could be introduced to regularly check the legality and compliance of AIGC-generated content. Through dynamic monitoring, potential risks can be detected and responded to in a timely manner, such as triggering early warning mechanisms when data flows are abnormal to prevent data leakage, thereby enhancing data management transparency and helping universities adjust their strategies to deal with risks.

Second, improve the data governance structure. The first step is to establish a data governance committee. Colleges and universities can establish cross-departmental data governance committees covering areas such as law, technology and teaching management to achieve unified coordination and supervision of data management and minimize data privacy and compliance risks in AIGC applications. For example, the legal department is responsible for data compliance review, the technical department ensures the security of data storage, and the teaching department supervises the educational use of data. This crossdepartmental collaborative governance structure can cover all aspects of data management, improving governance efficiency and transparency. The next step is to establish norms for data collection and use. The application of AIGC in the education of college students must comply with laws such as the Data Security Law of the People's Republic of China and the Personal Information Protection Law of the People's Republic of China. For example, when collecting data, it is necessary to ensure that explicit informed consent is obtained and that the purpose and retention period of the data are informed. For data that flows across departments, security should be ensured through techniques such as desensitization and encryption. For example, when students use AIGC to write their papers, academic data should be identified to protect privacy. This normalized process reduces legal risks as well as enhances the trust students and mentors have in the system. Finally, implement data lifecycle management. Data lifecycle management is an important measure to ensure data security, and universities should strictly control the entire process of data from collection to destruction (Kadaruddin 2023). For example, academic data that is no longer needed should be thoroughly cleared in accordance with security destruction standards to prevent data leakage. Colleges and universities can review each stage of the data lifecycle on a regular basis to ensure that processing complies with compliance requirements. This comprehensive control reduces the risk of data breaches and abuse and enhances the university's data management capabilities.

Third, ensure the special needs of higher education. First, ensure the exclusivity of academic achievements. Universities can establish rules for protecting academic data to ensure that students' academic achievements are not illegally embezzled or misused when they use AIGC for paper writing or



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

data analysis. For example, when submitting academic data to an AIGC platform, universities can require the platform to indicate the scope of data usage and authorization, and provide real-time tracking functions to ensure students' control over the data. Secondly, promote data compliance across disciplines in collaboration. Interdisciplinary research is on the rise in higher education, and colleges and universities should develop specialized data governance strategies to ensure the security and compliance of crossdomain data sharing. Interdisciplinary teams, for example, can limit the use of sensitive data through strict permission management in their collaboration to prevent data abuse. In addition, unified data management standards can facilitate academic collaboration while ensuring compliance.

3.2 Clarify property rights: Property rights definition and incentive mechanism

First, establish a legal framework for property rights ownership. There has been a lack of a clear legal framework for the ownership of AIGC-generated content. The current copyright law emphasizes the originality of "human creation", while AIGC-generated content relies on algorithms and data and lacks subjective intent, making it difficult to meet traditional originality standards. Therefore, a specific legal framework is needed to clarify the ownership of AIGC-generated content and ensure the protection of academic achievements in higher education. First of all, it is necessary to clarify the ownership of AIGC-generated content users (such as college students, mentors or colleges). For example, if a university student uses AIGC to generate the first draft of a paper, is it considered personal academic achievement? The law should set clear rules to avoid property rights disputes. Secondly, the scope of use, distribution rights and reuse rules of the generated content should be clearly defined, especially in international cooperation, how to authorize the sharing of research data generated by AIGC. The legal framework should provide a clear licensing model that guarantees legal use and promotes knowledge sharing (Brau 2020).

Second, encourage creators and promote collaboration. While AIGC improves the research efficiency of college students, its widespread use may dampen the enthusiasm of traditional creators, so it is crucial to establish a reasonable incentive mechanism. First, establish an authorization, licensing and compensation mechanism. Universities can use licensing mechanisms to allow subjects to choose whether to allow their results to be used in AIGC training. For example, when university students' research drafts are used for AIGC model optimization, the licensing agreement should specify compensation standards to ensure reasonable economic returns. This move not only encourages the creation of quality content, but also increases acceptance of AIGC technology. Secondly, protect the diversity and originality of educational resources. Higher education emphasizes innovation, and the incentive mechanism should reward original academic achievements and encourage creators to maintain their creativity. For example, colleges and universities could establish "original academic awards" to honor college students who insist on originality (Lan, Xiao & Yang 2023). Finally, benefit sharing and collaborative incentives. The production and dissemination of AIGC-generated content involve multiple parties, and revenue-sharing mechanisms need



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

to be established. For example, when commercializing generated content, a reasonable revenue-sharing ratio can be set according to the agreement, with a portion of the revenue allocated to universities or research teams. This mechanism not only incentive creators to participate in AIGC content development, but also enhances collaboration between platform developers and universities. At the same time, universities can encourage interdisciplinary collaboration through special rewards to promote collaborative research and learning.

Third, promote the internationalization of property rights rules. First, formulate rules for international cooperation. Universities should work with international academic institutions to develop regulations and rules for the utilization of GC graduate student data as involved and across multiple regions. The rules should be clear about the allocation of AI production GC rights and usage rights. This will provide a legal basis for the flow of data and the sharing of academic achievements in cross-border cooperation, reducing the risk of disputes. Secondly, it guides the development of global standards. Policy makers should be involved in the development of global intellectual property standards to ensure the applicability of AIGC property rules at the international level. For example, develop common standards, especially in the areas of copyright protection and data sharing, to lay the foundation for the application of AIGC in higher education and promote academic collaboration and resource sharing.

3.3 Avoiding the fog of responsibility: Principal-agent and accountability management

First, establish a responsibility allocation mechanism. First, as the client, the university should clarify its supervisory responsibility in terms of content compliance, and the university should sign a contract with the technology platform stipulating the platform's responsibility in terms of technology provision and content compliance. For example, the platform needs to ensure that the generated content complies with legal, ethical and academic norms and avoids plagiarism and academic misconduct. Universities should regularly review AIGC-generated content to ensure it meets academic requirements and norms and reduce the risk of data breaches and abuse. Secondly, students should also be held accountable as content users. While AIGC can provide convenience for students, students need to follow the school's regulations during use to ensure that their content conforms to academic norms. Colleges and universities should clarify students' responsibilities and obligations through specific operation manuals or norms to reduce the occurrence of academic misconduct. Finally, the allocation of responsibility should also strengthen the control over technical deficiencies. The platform is responsible for the technical flaws, while universities need to focus on platform compliance and supervise students' use to ensure the normal operation of AIGC technology and compliance with academic requirements.

Second, improve accountability management. First, establish a hierarchical accountability mechanism. Colleges and universities should establish a hierarchical accountability mechanism to ensure the



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

implementation of responsibilities. In the process of AIGC generating content, multiple subjects are involved, such as students, mentors, technology platforms, etc. In the event of academic misconduct or technical issues, schools should be able to trace the chain of responsibility. For example, if a college student generates inappropriate content, the school should identify the source of responsibility, including the platform's technology, the student's behavior, and the mentor's guidance responsibility. By detailing the responsibility at each stage, colleges can quickly identify the responsibility and ensure compliance. Secondly, establish an information disclosure and reporting system. The information disclosure and reporting system helps to increase the transparency of accountability. Colleges and universities should disclose the source and review process of AIGC content and increase the understanding of the data collection and generation process among all parties. Regular release of information such as content sources, generation tools, and review results can ensure that every participant understands the importance of compliance and promotes the healthy development of the academic environment. Finally, establish a dedicated accountability committee. high

Schools could also establish specialized accountability committees to handle disputes arising from AIGC content. The committee may investigate the person responsible based on prior rules and regulations and impose corresponding disciplinary actions. In this way, the school can effectively curb shirking of responsibility and improve the standardization of the academic environment.

Third, optimize the incentive and responsibility sharing mechanism. In order to balance the application of technology and the fulfillment of responsibility, colleges and universities should encourage students to take responsibility voluntarily and enjoy the convenience of technology through reasonable incentive mechanisms. First, students can be encouraged to follow academic norms and create high-quality academic achievements when using AIGC technology through scholarships or research awards. Secondly, incorporate the use of AIGC tools by college students into performance evaluations to ensure that they maintain academic originality and compliance in the application of the technology. In addition, universities should establish a revenue-sharing mechanism to distribute the proceeds from AIGC-generated content reasonably among university students and mentors, safeguard the rights and interests of all parties, and encourage cooperation and innovation. Through these measures, graduate students can enjoy the convenience brought by technology while actively undertaking academic responsibilities and promoting the innovation and sharing of academic achievements.

4. CONCLUSION

The application of AIGC in higher education has demonstrated great enabling potential. Through means such as knowledge construction, optimization of learning paths, and data-driven analysis, it has effectively enhanced educational efficiency and personalization, and at the same time promoted the innovation of



ISSN: 2582-6271

Vol. 6, Issue.2, Mar-Apr 2025, page no. 83-94

academic research and the realization of educational equity. However, the legal and ethical issues behind technology empowerment, such as data privacy protection, intellectual property rights ownership and responsibility allocation, pose significant challenges to its wide application. Future research should focus on AIGC in areas such as academic influence evaluation, multi-subject collaborative governance, optimization of academic integrity mechanisms, differentiated application in different disciplines, and protection of educational equity, to explore more scientific, compliant and sustainable application and governance paths to ensure that AIGC achieves a balance and unity of its technological and social values in higher education. To provide a solid support for the cultivation of high-quality innovative talents.

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