
HOUSE BILL 1431

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Santos, Dahlquist, Bergquist, and Pollet; by request of Superintendent of Public Instruction

Read first time 01/28/13. Referred to Committee on Education.

1 AN ACT Relating to alternative learning experience courses;
2 amending RCW 28A.150.325, 28A.250.010, 28A.250.020, 28A.250.050,
3 28A.150.100, 28A.525.162, and 28A.525.166; and repealing RCW
4 28A.150.262.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 28A.150.325 and 2011 1st sp.s. c 34 s 2 are each
7 amended to read as follows:

8 (1) ~~((For purposes of this chapter,))~~ The definitions in this
9 subsection apply throughout this chapter unless the context clearly
10 requires otherwise.

11 (a) "Alternative learning experience ~~((program))~~ course" means a
12 course ~~((or set of courses))~~ that is:

13 ~~((a))~~ (i) Provided in whole or in part independently from a
14 regular classroom setting or schedule, but may include some components
15 of direct instruction;

16 ~~((b))~~ (ii) Supervised, instructed, monitored, assessed,
17 evaluated, and documented by a certificated teacher employed by the
18 school district or under contract as permitted by applicable rules; and

1 ~~((e))~~ (iii) Provided in accordance with a written student
2 learning plan that is implemented pursuant to the school district's
3 policy and rules adopted by the superintendent of public instruction
4 for alternative learning experiences.

5 (b) "Hybrid course" means a course where the student has in-person
6 instructional contact time for at least twenty percent of the total
7 weekly time for the course.

8 (c) "In-person instructional contact time" means face-to-face
9 instructional time with a certificated teacher in a physical classroom
10 environment. In-person instructional contact time must be for the
11 purposes of actual instruction, review of assignments, testing,
12 evaluation of student progress, or other learning activities or
13 requirements identified in the student's written student learning plan.
14 In-person instructional contact time must be related to an alternative
15 learning experience course identified in the student's written student
16 learning plan. In-person instructional contact time may occur in a
17 group setting between the teacher and multiple students.

18 (d) "Online course" has the same meaning as provided in RCW
19 28A.250.010.

20 (e) "Remote course" means a course where the student has in-person
21 instructional contact time for less than twenty percent of the total
22 weekly time for the course.

23 (f) "Total weekly time" means the estimated average hours per
24 school week the student will engage in learning activities to meet the
25 requirements of the written student learning plan.

26 ~~(2) ((The broad categories of alternative learning experience~~
27 ~~programs include, but are not limited to:~~

28 ~~(a) Online programs as defined in RCW 28A.150.262;~~

29 ~~(b) Parent partnership programs that include significant~~
30 ~~participation and partnership by parents and families in the design and~~
31 ~~implementation of a student's learning experience; and~~

32 ~~(c) Contract based learning programs))~~ School districts may claim
33 state funding under RCW 28A.150.260, to the extent otherwise allowed by
34 state law including the provisions of RCW 28A.250.060, for students
35 enrolled in alternative learning experience courses subject to the
36 following requirements and limitations:

37 (a) Remote courses may be offered only to students in grades nine
38 through twelve, unless:

1 (i) The student has a health condition, documented by a person
2 licensed, certified, registered, or otherwise authorized by the law of
3 this state to provide health care, that prevents the student from
4 physically attending school in a regular classroom setting;

5 (ii) The student is temporarily absent from school in accordance
6 with rules adopted by the superintendent of public instruction under
7 RCW 28A.150.290; or

8 (iii) The student is in grades six through eight and has been
9 removed from a regular classroom setting for violating a code of
10 student conduct.

11 (b) Hybrid courses may be offered to students in grades
12 kindergarten through twelve.

13 (c) Online courses may be offered only to students in grades six
14 through twelve, unless:

15 (i) The student has a health condition, documented by a person
16 licensed, certified, registered, or otherwise authorized by the law of
17 this state to provide health care, that prevents the student from
18 physically attending school in a regular classroom setting;

19 (ii) The student is temporarily absent from school in accordance
20 with rules adopted by the superintendent of public instruction under
21 RCW 28A.150.290;

22 (iii) The school district determines it is academically necessary
23 for a student to access a course that meets state standards for grades
24 six through twelve;

25 (iv) The student is in grades four or five and has been removed
26 from a regular classroom setting for violating a code of student
27 conduct.

28 (d) High school courses must meet district or state graduation
29 requirements and be offered for high school credit.

30 (3) School districts that offer alternative learning experience
31 (~~programs~~) courses may not provide any compensation, reimbursement,
32 gift, reward, or gratuity to any parents, guardians, or students for
33 participation in the courses. School district employees are prohibited
34 from receiving any compensation or payment as an incentive to increase
35 student enrollment of out-of-district students in (~~an~~) alternative
36 learning experience (~~program~~) courses. This prohibition includes,
37 but is not limited to, providing funds to parents, guardians, or
38 students for the purchase of educational materials, supplies,

1 experiences, services, or technological equipment. A district may
2 purchase educational materials, equipment, or other nonconsumable
3 supplies for students' use in alternative learning experience
4 ~~((programs))~~ courses if the purchase is consistent with the district's
5 approved curriculum, conforms to applicable laws and rules, and is made
6 in the same manner as such purchases are made for students in the
7 district's regular instructional program. Items so purchased remain
8 the property of the school district upon program completion. School
9 districts may not purchase or contract for instructional or
10 cocurricular experiences and services that are included in an
11 alternative learning experience written student learning plan,
12 including but not limited to lessons, trips, and other activities(~~(-~~
13 ~~unless substantially similar experiences and services are available to~~
14 ~~students enrolled in the district's regular instructional program.~~
15 ~~School districts that purchase or contract for such experiences and~~
16 ~~services for students enrolled in an alternative learning experience~~
17 ~~program must submit an annual report to the office of the~~
18 ~~superintendent of public instruction detailing the costs and purposes~~
19 ~~of the expenditures. These requirements extend to contracted providers~~
20 ~~of alternative learning experience programs, and each district shall be~~
21 ~~responsible for monitoring the compliance of its providers with these~~
22 ~~requirements. However)), unless these experiences or services are
23 provided to all students in the district in the exact same manner.
24 Nothing in this ((section)) subsection shall prohibit school districts
25 from contracting with school district employees to provide services or
26 experiences to students, or from contracting with online providers
27 approved by the office of the superintendent of public instruction
28 pursuant to chapter 28A.250 RCW.~~

29 (4) ~~((Part-time enrollment in alternative learning experiences is~~
30 ~~subject to the provisions of RCW 28A.150.350.~~

31 (5) ~~The superintendent of public instruction shall adopt rules~~
32 ~~defining minimum requirements and accountability for alternative~~
33 ~~learning experience programs)) Each school district offering or
34 contracting to offer alternative learning experience courses must:~~

35 (a) Report annually to the superintendent of public instruction
36 regarding the course types and offerings, and number of students
37 participating in each; and

1 (b) Document the district of residence for each student enrolled in
2 an alternative learning experience course.

3 (5) School districts must assess the educational progress of
4 enrolled students at least annually, using, for full-time students, the
5 state assessment for the student's grade level and using any other
6 annual assessments required by the school district. Part-time students
7 must also be assessed at least annually. However, part-time students
8 who are either receiving home-based instruction under chapter 28A.200
9 RCW or who are enrolled in an approved private school under chapter
10 28A.195 RCW are not required to participate in the assessments required
11 under chapter 28A.655 RCW. The rules must address how students who
12 reside outside the geographic service area of the school district are
13 to be assessed.

14 (6) Beginning with the 2013-14 school year, school districts must
15 designate alternative learning experience courses as such when
16 reporting course information to the office of the superintendent of
17 public instruction under RCW 28A.300.500.

18 (7) The superintendent of public instruction shall adopt rules
19 necessary to implement this section.

20 **Sec. 2.** RCW 28A.250.010 and 2011 1st sp.s. c 34 s 5 are each
21 amended to read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1)(a) "Multidistrict online provider" means:

25 (i) A private or nonprofit organization that enters into a contract
26 with a school district to provide online courses or programs to K-12
27 students from more than one school district;

28 (ii) A private or nonprofit organization that enters into contracts
29 with multiple school districts to provide online courses or programs to
30 K-12 students from those districts; or

31 (iii) Except as provided in (b) of this subsection, a school
32 district that provides online courses or programs to students who
33 reside outside the geographic boundaries of the school district.

34 (b) "Multidistrict online provider" does not include a school
35 district online learning program in which fewer than ten percent of the
36 students enrolled in the program are from other districts under the
37 interdistrict student transfer provisions of RCW 28A.225.225.

1 "Multidistrict online provider" also does not include regional online
2 learning programs that are jointly developed and implemented by two or
3 more school districts or an educational service district through an
4 interdistrict cooperative program agreement that addresses, at minimum,
5 how the districts share student full-time equivalency for state basic
6 education funding purposes and how categorical education programs,
7 including special education, are provided to eligible students.

8 (2)(a) "Online course" means a course where:

9 (i) More than half of the course content is delivered
10 electronically using the internet or other computer-based methods;
11 (~~and~~)

12 (ii) More than half of the teaching is conducted from a remote
13 location through an online course learning management system or other
14 online or electronic tools; and

15 (iii) The student's primary instructional interaction is with a
16 certificated teacher. Instructional interaction between the teacher
17 and the student includes, but is not limited to, direct instruction,
18 review of assignments, assessment, testing, progress monitoring, and
19 educational facilitation.

20 (b) "Online school program" means a school program that:

21 (i) Offers courses or grade-level coursework that is delivered
22 primarily electronically using the internet or other computer-based
23 methods;

24 (ii) Offers courses or grade-level coursework that is taught by a
25 teacher primarily from a remote location using online or other
26 electronic tools. Students enrolled in an online program may have
27 access to the teacher synchronously, asynchronously, or both;

28 (iii) Offers a sequential set of online courses or grade-level
29 coursework that may be taken in a single school term or throughout the
30 school year in a manner that could provide a full-time basic education
31 program if so desired by the student. Students may enroll in the
32 program as part-time or full-time students; and

33 (iv) Has an online component of the program with online lessons and
34 tools for student and data management.

35 (c) An online course or online school program may be delivered to
36 students at school as part of the regularly scheduled school day. An
37 online course or online school program also may be delivered to
38 students, in whole or in part, independently from a regular classroom

1 schedule, but such courses or programs must comply with RCW
2 ((28A.150.262)) 28A.150.325 to qualify for state basic education
3 funding.

4 (3) "Online provider" means any provider of an online course or
5 program, including multidistrict online providers, all school district
6 online learning programs, and all regional online learning programs.

7 **Sec. 3.** RCW 28A.250.020 and 2011 1st sp.s. c 34 s 6 are each
8 amended to read as follows:

9 (1) The superintendent of public instruction, in collaboration with
10 the state board of education, shall develop and implement approval
11 criteria and a process for approving online providers; a process for
12 monitoring and if necessary rescinding the approval of courses or
13 programs offered by an online provider; and an appeals process. The
14 criteria and processes for multidistrict online providers shall be
15 adopted by rule by December 1, 2009.

16 (2) When developing the approval criteria, the superintendent of
17 public instruction shall require that providers offering online courses
18 or programs have accreditation, or are candidates for accreditation,
19 through the Northwest accreditation commission or another national,
20 regional, or state accreditation program listed by the office of the
21 superintendent of public instruction (~~((after consultation with the
22 Washington coalition for online learning))~~). In addition to other
23 criteria, the approval criteria shall include the degree of alignment
24 with state academic standards and require that all teachers be
25 certificated in accordance with Washington state law. When reviewing
26 online providers that offer high school courses, the superintendent of
27 public instruction shall assure that the courses offered by the
28 provider are eligible for high school credit. However, final decisions
29 regarding whether credit meets the school district's graduation
30 requirements shall remain the responsibility of the school districts.

31 (3) Initial approval of online providers by the superintendent of
32 public instruction shall be for four years. The superintendent of
33 public instruction shall develop a process for the renewal of approvals
34 and for rescinding approvals based on noncompliance with approval
35 requirements. Any multidistrict online provider that was approved by
36 the digital learning commons or accredited by the Northwest association
37 of accredited schools before July 26, 2009, and that meets the teacher

1 certification requirements of subsection (2) of this section, is exempt
2 from the initial approval process under this section until August 31,
3 2012, but must comply with the process for renewal of approvals and
4 must comply with approval requirements.

5 (4) The superintendent of public instruction shall make the first
6 round of decisions regarding approval of multidistrict online providers
7 by April 1, 2010. The first round of decisions regarding approval of
8 online providers that are not multidistrict online providers shall be
9 made by April 1, 2013. Thereafter, the superintendent of public
10 instruction shall make annual approval decisions no later than November
11 1st of each year.

12 (5) The superintendent of public instruction shall establish an
13 online learning advisory committee within existing resources that shall
14 provide advice to the superintendent regarding the approval criteria,
15 major components of the web site, the model school district policy,
16 model agreements, and other related matters. The committee shall
17 include a representative of each of the following groups: Private and
18 public online providers, parents of online students, accreditation
19 organizations, educational service districts, school principals,
20 teachers, school administrators, school board members, institutions of
21 higher education, and other individuals as determined by the
22 superintendent. Members of the advisory committee shall be selected by
23 the superintendent based on nominations from statewide organizations,
24 shall serve three-year terms, and may be reappointed. The
25 superintendent shall select the chair of the committee.

26 **Sec. 4.** RCW 28A.250.050 and 2011 1st sp.s. c 34 s 11 are each
27 amended to read as follows:

28 (1) By August 31, 2010, all school district boards of directors
29 shall develop policies and procedures regarding student access to
30 online courses and online learning programs. The policies and
31 procedures shall include but not be limited to: Student eligibility
32 criteria; the types of online courses available to students through the
33 school district; the methods districts will use to support student
34 success, which may include a local advisor; when the school district
35 will and will not pay course fees and other costs; the granting of high
36 school credit; and a process for students and parents or guardians to
37 formally acknowledge any course taken for which no credit is given.

1 The policies and procedures shall take effect beginning with the 2010-
2 11 school year. School districts shall submit their policies to the
3 superintendent of public instruction by September 15, 2010. By
4 December 1, 2010, the superintendent of public instruction shall
5 summarize the school district policies regarding student access to
6 online courses and submit a report to the legislature.

7 (2) School districts must award credit and grades for online high
8 school courses successfully completed by a student that meet the school
9 district's graduation requirements and are provided by an approved
10 online provider.

11 (3) School districts shall provide students with information
12 regarding online courses that are available through the school
13 district. The information shall include the types of information
14 described in subsection (1) of this section.

15 (4) When developing local or regional online learning programs,
16 school districts shall incorporate into the program design the approval
17 criteria developed by the superintendent of public instruction under
18 RCW 28A.250.020.

19 **Sec. 5.** RCW 28A.150.100 and 2011 1st sp.s. c 34 s 10 are each
20 amended to read as follows:

21 (1) For the purposes of this section and RCW 28A.150.410 and
22 28A.400.200, "basic education certificated instructional staff" means
23 all full-time equivalent classroom teachers, teacher librarians,
24 guidance counselors, certificated student health services staff, and
25 other certificated instructional staff in the following programs as
26 defined for statewide school district accounting purposes: Basic
27 education, secondary vocational education, general instructional
28 support, and general supportive services.

29 (2) Each school district shall maintain a ratio of at least forty-
30 six basic education certificated instructional staff to one thousand
31 annual average full-time equivalent students. This requirement does
32 not apply to that portion of a district's annual average full-time
33 equivalent enrollment that is enrolled in alternative learning
34 experience (~~(programs))~~ courses as defined in RCW 28A.150.325.

35 **Sec. 6.** RCW 28A.525.162 and 2012 c 244 s 2 are each amended to
36 read as follows:

1 (1) Funds appropriated to the superintendent of public instruction
2 from the common school construction fund shall be allotted by the
3 superintendent of public instruction in accordance with this chapter.

4 (2) No allotment shall be made to a school district until such
5 district has provided local funds equal to or greater than the
6 difference between the total approved project cost and the amount of
7 state funding assistance to the district for financing the project
8 computed pursuant to RCW 28A.525.166, with the following exceptions:

9 (a) The superintendent of public instruction may waive the local
10 requirement for state funding assistance for districts which have
11 provided funds for school building construction purposes through the
12 authorization of bonds or through the authorization of excess tax
13 levies or both in an amount equivalent to two and one-half percent of
14 the value of its taxable property, as defined in RCW 39.36.015.

15 (b) No such local funds shall be required as a condition to the
16 allotment of funds from the state for the purpose of making major or
17 minor structural changes to existing school facilities in order to
18 bring such facilities into compliance with the barrier free access
19 requirements of section 504 of the federal rehabilitation act of 1973
20 (29 U.S.C. Sec. 706) and rules implementing the act.

21 (3) For the purpose of computing the state funding assistance
22 percentage under RCW 28A.525.166 when a school district is granted
23 authority to enter into contracts, adjusted valuation per pupil shall
24 be calculated using headcount student enrollments from the most recent
25 October enrollment reports submitted by districts to the superintendent
26 of public instruction, adjusted as follows:

27 (a) In the case of projects for which local bonds were approved
28 after May 11, 1989:

29 (i) For districts which have been designated as serving high school
30 districts under RCW 28A.540.110, students residing in the nonhigh
31 district so designating shall be excluded from the enrollment count if
32 the student is enrolled in any grade level not offered by the nonhigh
33 district;

34 (ii) The enrollment of nonhigh school districts shall be increased
35 by the number of students residing within the district who are enrolled
36 in a serving high school district so designated by the nonhigh school
37 district under RCW 28A.540.110, including only students who are

1 enrolled in grade levels not offered by the nonhigh school district;
2 and

3 (iii) The number of preschool students with disabilities included
4 in the enrollment count shall be multiplied by one-half;

5 (b) In the case of construction or modernization of high school
6 facilities in districts serving students from nonhigh school districts,
7 the adjusted valuation per pupil shall be computed using the combined
8 adjusted valuations and enrollments of each district, each weighted by
9 the percentage of the district's resident high school students served
10 by the high school district;

11 (c) The number of kindergarten students included in the enrollment
12 count shall be counted as one headcount student; and

13 (d) The number of students residing outside the school district who
14 are enrolled in alternative learning experience (~~(programs)~~) courses
15 under RCW 28A.150.325 shall be excluded from the total.

16 (4) In lieu of the exclusion in subsection (3)(d) of this section,
17 a district may submit an alternative calculation for excluding students
18 enrolled in alternative learning experience (~~(programs)~~) courses. The
19 alternative calculation must show the student headcount use of district
20 classroom facilities on a regular basis for a regular duration by out-
21 of-district alternative learning experience (~~(program)~~) students
22 subtracted by the headcount of in-district alternative learning
23 experience (~~(program)~~) students not using district classroom facilities
24 on a regular basis for a reasonable duration. The alternative
25 calculation must be submitted in a form approved by the office of the
26 superintendent of public instruction. The office of the superintendent
27 of public instruction must develop rules to define "regular basis" and
28 "reasonable duration."

29 (5) The superintendent of public instruction, considering policy
30 recommendations from the school facilities citizen advisory panel,
31 shall prescribe such rules as are necessary to equate insofar as
32 possible the efforts made by school districts to provide capital funds
33 by the means aforesaid.

34 (6) For the purposes of this section, "preschool students with
35 disabilities" means children of preschool age who have developmental
36 disabilities who are entitled to services under RCW 28A.155.010 through
37 28A.155.100 and are not included in the kindergarten enrollment count
38 of the district.

1 **Sec. 7.** RCW 28A.525.166 and 2012 c 244 s 3 are each amended to
2 read as follows:

3 Allocations to school districts of state funds provided by RCW
4 28A.525.162 through 28A.525.180 shall be made by the superintendent of
5 public instruction and the amount of state funding assistance to a
6 school district in financing a school plant project shall be determined
7 in the following manner:

8 (1) The boards of directors of the districts shall determine the
9 total cost of the proposed project, which cost may include the cost of
10 acquiring and preparing the site, the cost of constructing the building
11 or of acquiring a building and preparing the same for school use, the
12 cost of necessary equipment, taxes chargeable to the project, necessary
13 architects' fees, and a reasonable amount for contingencies and for
14 other necessary incidental expenses: PROVIDED, That the total cost of
15 the project shall be subject to review and approval by the
16 superintendent.

17 (2) The state funding assistance percentage for a school district
18 shall be computed by the following formula:

19 The ratio of the school district's adjusted valuation per pupil
20 divided by the ratio of the total state adjusted valuation per pupil
21 shall be subtracted from three, and then the result of the foregoing
22 shall be divided by three plus (the ratio of the school district's
23 adjusted valuation per pupil divided by the ratio of the total state
24 adjusted valuation per pupil).

25		District adjusted	Total state	
26		3-valuation	÷ adjusted valuation	
27	Computed	per pupil	per pupil	State
28	State =	_____		= - % Funding
29	Ratio	District adjusted	Total state	Assistance
30		3+valuation	÷ adjusted valuation	
31		per pupil	per pupil	

32 PROVIDED, That in the event the state funding assistance percentage to
33 any school district based on the above formula is less than twenty
34 percent and such school district is otherwise eligible for state
35 funding assistance under RCW 28A.525.162 through 28A.525.180, the
36 superintendent may establish for such district a state funding
37 assistance percentage not in excess of twenty percent of the approved

1 cost of the project, if the superintendent finds that such additional
2 assistance is necessary to provide minimum facilities for housing the
3 pupils of the district.

4 (3) In addition to the computed state funding assistance percentage
5 developed in subsection (2) of this section, a school district shall be
6 entitled to additional percentage points determined by the average
7 percentage of growth for the past three years. One percent shall be
8 added to the computed state funding assistance percentage for each
9 percent of growth, with a maximum of twenty percent.

10 (4) In computing the state funding assistance percentage in
11 subsection (2) of this section and adjusting the percentage under
12 subsection (3) of this section, students residing outside the school
13 district who are enrolled in alternative learning experience
14 (~~(programs)~~) courses under RCW 28A.150.325 shall be excluded from the
15 count of total pupils. In lieu of the exclusion in this subsection, a
16 district may submit an alternative calculation for excluding students
17 enrolled in alternative learning experience (~~(programs)~~) courses. The
18 alternative calculation must show the student headcount use of district
19 classroom facilities on a regular basis for a reasonable duration by
20 out-of-district alternative learning experience (~~(program)~~) students
21 subtracted by the headcount of in-district alternative learning
22 experience (~~(program)~~) students not using district classroom facilities
23 on a regular basis for a reasonable duration. The alternative
24 calculation must be submitted in a form approved by the office of the
25 superintendent of public instruction. The office of the superintendent
26 of public instruction must develop rules to define "regular basis" and
27 "reasonable duration."

28 (5) The approved cost of the project determined in the manner
29 prescribed in this section multiplied by the state funding assistance
30 percentage derived as provided for in this section shall be the amount
31 of state funding assistance to the district for the financing of the
32 project: PROVIDED, That need therefor has been established to the
33 satisfaction of the superintendent: PROVIDED, FURTHER, That additional
34 state funding assistance may be allowed if it is found by the
35 superintendent, considering policy recommendations from the school
36 facilities citizen advisory panel that such assistance is necessary in
37 order to meet (a) a school housing emergency resulting from the
38 destruction of a school building by fire, the condemnation of a school

1 building by properly constituted authorities, a sudden excessive and
2 clearly foreseeable future increase in school population, or other
3 conditions similarly emergent in nature; or (b) a special school
4 housing burden resulting from projects of statewide significance or
5 imposed by virtue of the admission of nonresident students into
6 educational programs established, maintained and operated in conformity
7 with the requirements of law; or (c) a deficiency in the capital funds
8 of the district resulting from financing, subsequent to April 1, 1969,
9 and without benefit of the state funding assistance provided by prior
10 state assistance programs, the construction of a needed school building
11 project or projects approved in conformity with the requirements of
12 such programs, after having first applied for and been denied state
13 funding assistance because of the inadequacy of state funds available
14 for the purpose, or (d) a condition created by the fact that an
15 excessive number of students live in state owned housing, or (e) a need
16 for the construction of a school building to provide for improved
17 school district organization or racial balance, or (f) conditions
18 similar to those defined under (a), (b), (c), (d), and (e) of this
19 subsection, creating a like emergency.

20 NEW SECTION. **Sec. 8.** RCW 28A.150.262 (Defining full-time
21 equivalent student--Students receiving instruction through alternative
22 learning experience online programs--Requirements) and 2011 1st sp.s.
23 c 34 s 3, 2009 c 542 s 9, & 2005 c 356 s 2 are each repealed.

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