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BP 1312.3

UNIFORM COMPLAINT PROCEDURES

The Board of Education recognizes the District's primary responsibility to comply with applicable state and federal laws and regulations governing educational programs. The Board of Education encourages the early, informal resolution of complaints whenever possible and appropriate.

For the purposes of this policy and the associated administrative regulation, conduct constituting "harassment", "intimidation", or "bullying" is conduct that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of another by creating an intimidating or hostile educational environment.

To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

The District's Uniform Complaint Procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging District violation of applicable state or federal law or regulations governing adult education programs, After School Education and Safety programs, agricultural vocational education, American Indian education centers and early childhood education program assessments, bilingual education, peer assistance and review programs for teachers, career technical and technical education and training programs, child care and development programs, child nutrition programs, compensatory education, consolidated categorical aid programs, Economic Impact Aid, English learner programs, federal education programs in Title I-VII, migrant education, Regional Occupational Centers and Programs, school safety plans, special education programs, State Preschool Programs, Tobacco-Use Prevention Education programs, and any other district-implemented program which is listed in Education Code 64000(a)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3555 - Nutrition Program Compliance)

(cf. 5131.62 - Tobacco)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6159 - Individualized Education Program)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 6178.1 - Work-Based Learning)

(cf. 6178.2 - Regional Occupational Center/Program)

(cf. 6200 - Adult Education)

2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in District programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging District noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed and infant child, or address other breastfeeding-related needs of the student (education Code 222)
4. Any complaint alleging District noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5CCR 4610)
5. Any complaint alleging District noncompliance with legal requirements related to the implementation of the Local Control and Accountability Plan (LCAP). (Education Code 52075)
6. Any complaint, by or on behalf of any student who is a foster youth, alleging District noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the District's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)
7. Any complaint, by or on behalf of a homeless student as defined in 42 USC 11434a, a former juvenile court school student, or a child of a military family as defined in Education Code 49701 who transfers into the District after his/her second year of high school, alleging District noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed graduation requirements (Education Code 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education for Juvenile Court School Students)

8. Any complaint alleging District noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student in grades 9-12 to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3)

(cf. 6152 - Class Assignment)

9. Any complaint alleging District noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)
10. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy.
11. Any other complaint as specified in a District policy

Non-UCP Complaints

The following complaints are examples that shall not be subject to the District's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services, the County Protective Services Division, and the appropriate law enforcement agency.
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.
3. Any complaint alleging employment discrimination shall be sent to the California Department of Fair Employment and Housing and the compliance officer shall notify the complainant by first class mail of the transfer.
4. In addition, the District's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments. (Education Code 35186)
5. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.
6. When an allegation that is not subject to the UCP is included in a UCP complaint, the District shall refer the non-UCP allegation to the appropriate staff or agency and shall resolve the UCP-related allegation(s) through the District's UCP.

No Retaliation

The District shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

(cf. 5125 – Student Records)

(cf. 9011 – Disclosure of Confidential/Privileged Information)

Informal Resolution

The Board of Education encourages the early, informal resolution of complaints at the site level whenever possible.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving the problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

Policy

TORRANCE UNIFIED SCHOOL DISTRICT

adopted: May 19, 2003

Torrance, California

revised: December 13, 2004; June 5, 2006; September 7, 2010; June 4, 2012; October 8, 2012; September 16, 2013; January 20, 2015; September 21, 2015; May 2, 2016; October 24, 2016; July 17, 2017; May 21, 2018



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AR 1312.3

UNIFORM COMPLAINT PROCEDURES

Introduction

Except as the Board of Education may otherwise specifically provide in other District policies, these Uniform Complaint Procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

Compliance Officers

The District designates the following lead compliance officer to receive and coordinate the investigation of complaints and ensure District compliance with law:

Senior Director – Human Resources
2335 Plaza Del Amo
Torrance, CA 90501
(310) 972-6071

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.

The lead compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant if another compliance officer is designated to investigate the complaint.

In no instance shall a compliance officer be designated to investigate a complaint if he/she is mentioned in the complaint, has a bias, or has a conflict of interest that would prohibit him/her from fairly investigating the complaint. Any complaint filed against or implicating a compliance officer shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the results of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement, if possible, one or more of the interim measures. The interim measures may remain in place until the compliance officer determines that they are no longer necessary or until the District issues its final written decision, whichever occurs first.

Notifications

The District's Uniform Complaint Procedures (UCP) policy and administrative regulation shall be posted in all District schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

AR 1312.3(b)

The Superintendent or designee shall annually provide written notification of the District's uniform complaint procedures including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to the educational rights of foster youth, homeless students, and former juvenile court school students to students, employees, parents/guardians, the District advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (Education Code 262.3, 49013, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075; 5 CCR 4622)

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the District web site and, if available, provided through district-supported social media.

All students and parents/guardians, including students and parents/guardians with limited English proficiency, shall have access to the relevant information provided in the District's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular District school speak a single primary language other than English, the District's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the District shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The notice shall:

1. Identify the person(s), position, or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination, harassment, intimidation, and bullying laws, if applicable.
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).
4. Include statements that:
 - a. The District is primarily responsible to ensure compliance with applicable state and federal laws and regulations governing educational programs
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
 - c. A complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying must be filed not later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation, or bullying. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.
 - d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such as a disability or illiteracy, District staff shall assist him/her in the filing of the complaint.
 - e. If a complaint is not filed in writing but the District receives notice of any allegation that is subject to the UCP, the District shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation confirms that discrimination has occurred, the District will take steps to prevent recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.
 - f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an educational activity that constitutes an integral fundamental part of the District's educational program, including curricular and extracurricular activities.
 - g. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students, and other stakeholders in the development and/or review of the LCAP.

- h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the District liaison for foster youth to ensure and facilitate these requirements and to assist the student in ensuring proper transfer of his/her credits, records, and grades when he/she transfers between schools or between the District and another district.
- i. A foster youth, homeless student, or former juvenile court school student who transfers into a District high school or between District high schools shall be notified of the District's responsibility to:
 - 1. Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed.
 - 2. Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency.
 - 3. If the student has completed his/her second year of high school before the transfer, provide the student information about District-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1
- j. The complainant has a right to appeal the District's decision to the California Department of Education (CDE) by filing a written appeal within 15 calendar days of receiving the District's decision.

In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, if he/she is dissatisfied with the District's decision.
- k. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the District's decision.
- l. Copies of the District's uniform complaint procedures are available free of charge.

District Responsibilities

All UCP-related complaints shall be investigated and resolved within 60 calendar days of the District's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline. (5 CCR 4631)

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the District shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination, (such as discriminatory harassment, intimidation, or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, or maintain the integrity of the process. (5 CCR 4630, 4964)

All complainants shall be protected from retaliation.

Step 1: Filing of Complaint

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a date stamp and code number.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, District staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

All complaints shall be filed in accordance with the following:

- 1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to the UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)

2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)
3. A complaint alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may be filed only by a person who alleges that he/she personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to it. The complaint shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
5. When the complainant of unlawful discrimination, (such as discriminatory harassment, intimidation, or bullying) or the alleged victim requests confidentiality, the compliance officer shall inform him/her that the request may limit the District's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the District will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.
6. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, District staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

Mediation

Within three business days after the compliance officer receives the complaint, he/she may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the District's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If the mediation is successful and the complaint is withdrawn, then the District shall take only the actions agreed to through the mediation. If mediation is unsuccessful, the District shall then continue with subsequent steps specified in this administrative regulation. (5 CCR 4631)

Step 2: Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer or designee shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation, or his/her engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of lack of evidence to support the allegations. (5 CCR 4631)

Similarly, a respondent's refusal to provide the District's investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631(d))

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a

confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

In accordance with law, the District shall provide the investigator with access to records and/or other information related to the allegation in the complaint and shall not in any way obstruct the investigation. (5 CCR 4631)

The compliance officer or designee shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 3: Report of Findings

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant, and respondent if there is one, a written report of the District's investigation and decision, as described in Step 4 below, "Final Written Decision," within 60 days of the District's receipt of the complaint. (5 CCR 4631)

Step 4: Final Written Decision

The District's decision on how it will resolve the complaint shall be in writing and sent to the complainant and respondent. (5 CCR 4631)

In consultation with legal counsel, information about the relevant part of a decision may be communicated to other parties as appropriate.

The District's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

For all complaints, the decision should include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the District's decision within 15 calendar days to the California Department of Education and the procedures to be followed for initiating such an appeal

In addition, any decision concerning a retaliation, discrimination, harassment, intimidation or bullying complaint based on state law shall include a notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. (Education Code 262.3)

Corrective Action

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce District policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that corrective action was taken and that the student or employee was informed of District expectations. The report shall not give any further information as to the nature of the disciplinary action.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges or any requirement related to the LCAP is found to have merit, the District shall provide a remedy to all affected students and parents/guardians, subject to procedures established through regulations adopted by the state board. (Education Code 49013, 52075)

For complaints alleging noncompliance with the laws regarding student fees, such remedies, where applicable, shall include reasonable efforts to ensure full reimbursement to affected students and parents/guardians. The District will, in good faith, engage in reasonable efforts to identify and fully reimburse all pupils, parents, and guardians who paid a pupil fee within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

If dissatisfied with the District's decision, the complainant may appeal in writing to the CDE within 15 calendar days of receiving the District's decision. (Education Code 49013, 52075; 5 CCR 4632.)

When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. A copy of the locally filed complaint, and a copy of the District's decision shall accompany the appeal. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the District's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by the District, if not covered by the decision
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the District's uniform complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 exists, including cases in which the District has not taken action within 60 days of the date of the complaint was filed with the District.

Civil Law Remedies

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the District's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Regulation

TORRANCE UNIFIED SCHOOL DISTRICT

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Torrance, California

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