
STATUTORY INSTRUMENTS

1986 No. 594

The Education and Libraries (Northern Ireland) Order 1986

PART V

RIGHTS AND DUTIES OF PARENTS AND PROVISIONS RELATING TO INDIVIDUAL PUPILS

General

Pupils to be educated in accordance with wishes of their parents

44^{F1}. In the exercise and performance of all powers and duties conferred or imposed on them by^{F2} the Education Orders], the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.

F1 certain functions transf. by SR 1999/481

F2 [1989 NI 20](#)

Duties of parents to secure full-time education for their children

45.—(1) The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.

(2) The provisions of Schedule 13 shall apply to the enforcement of the provisions of paragraph (1) and a parent who contravenes the provisions of that Schedule shall be guilty of an offence and liable to the penalties provided by paragraph 4 of that Schedule.

^{F3}Compulsory school age

46.—(1) Subject to the following provisions of this Article, in the Education Orders the expression “compulsory school age” means any age between four years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of four years and has not attained the age of sixteen years.

(2) Where a person attains the age of four years—

- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;
- (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.

Status: Point in time view as at 01/01/2006.

Changes to legislation: The Education and Libraries (Northern Ireland) Order 1986, PART V is up to date with all changes known to be in force on or before 17 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where a person attains the age of sixteen years—
- (a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or such other date as the Department may, by order subject to affirmative resolution, prescribe;
 - (b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or such other date as the Department may, by order subject to affirmative resolution, prescribe.]

F3 1989 NI 20

Commencement of secondary education

46A.—^[F4(1)] ^[F4]Except as provided by paragraph (2), (3) or (4)], a child shall commence secondary education—

- (a) where he attains the age of eleven years on a date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, on 1st August in that following year;
- (b) where he attains that age on a date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, on 1st August in the following year.

^[F4(2)] A child shall commence secondary education on 1st August next before his normal date of commencement where—

- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that earlier date; and
- (b) the parent of the child agrees with that opinion.

(3) A child shall commence secondary education on 1st August next after his normal date of commencement where—

- (a) the appropriate Board of Governors is of the opinion that it is in the best interests of the child to commence secondary education on that later date; and
- (b) the parent of the child agrees with that opinion.

(4) A child shall commence secondary education on 1st August next before or after his normal date of commencement where—

- (a) the board for the area in which he resides so directs; and
- (b) at the time the direction is given the child is not a registered pupil at any school.

(5) In forming an opinion for the purposes of paragraph (2) or (3) the Board of Governors of a school shall comply with the guidance issued under paragraph (6) and in particular—

- (a) shall take into account such matters or matters of such description as may be specified in such guidance;
- (b) shall not take into account such matters or matters of such description as may be so specified; and
- (c) shall follow such administrative procedures as may be so specified.

(6) The Department shall issue such guidance as it thinks fit as to the exercise by a Board of Governors of its functions under this Article and such guidance shall in particular—

- (a) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (2) or (3) to take into account the advice of the principal of the school (or, in the case of a grammar school providing both primary and secondary education, the teacher in charge of that part of the school in which primary education is provided);
- (b) require the Board of Governors of a school in forming an opinion for the purposes of paragraph (3) to take into account the advice of the relevant board;
- (c) specify the matters or descriptions of matters which are, or are not, to be taken into account by a Board of Governors in forming an opinion for the purposes of paragraph (2) or (3);
- (d) specify the administrative procedures to be followed by a Board of Governors in exercising its functions under this Article; and
- (e) prohibit the delegation by the Board of Governors (notwithstanding anything in the scheme of management of the school) of such functions under this Article as are specified in the guidance.

(7) The Department shall issue such guidance as it thinks fit as to—

- (a) the exercise by a board of its functions under paragraph (4); and
- (b) the giving by a board of advice for the purposes of paragraph (6)(b).

(8) The Department shall publish the guidance issued by it under paragraphs (6) and (7) in such manner as it thinks fit.

(9) In this Article—

“appropriate Board of Governors”, in relation to a child, means the Board of Governors of the school at which the child is a registered pupil;

“normal date of commencement”, in relation to a child, means the date on which, but for any provision made under paragraph (2), (3) or (4), the child would commence secondary education;

“relevant board”, in relation to the Board of Governors of a school, means—

- (a) in the case of a controlled school, the board by which the school is managed;
- (b) in the case of a maintained school, the board by which the school is maintained; and
- (c) in the case of any other school, the board for the area in which the school is situated.

(10) This Article does not apply in relation to—

- (a) children in respect of whom statements are maintained under Article 16 of the Education (Northern Ireland) Order 1996; or
- (b) children in independent schools.]

F4 1996 NI 1

Presumption as to age

47. Where in any proceedings under^{F5} the Education Orders] other than a prosecution to which paragraph 4 of Schedule 13 applies, the person by whom the proceedings are brought alleges that any person whose age is material to the proceedings is under, of, or over, any age and satisfies the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so, then, unless the contrary is proved, the court may presume that person to be under, of, or over the age alleged.

Status: Point in time view as at 01/01/2006.

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F5 1989 NI 20

Registration of pupils at school

48.—(1) The proprietor of every school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars with respect to all persons^{F6}. . . who are pupils at the school and regulations may—

- (a) make provision for enabling the registers so kept to be inspected and extracts taken therefrom for the purposes of^{F7} the Education Orders] by persons duly authorised in that behalf under the regulations; and
- (b) require persons by whom registers are so kept to make to the Department and to boards such periodical or other returns as to the contents thereof as may be prescribed.

(2) A person who contravenes the provisions of paragraph (1) or of regulations thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) Regulations may prescribe the procedure by which a child may become a registered pupil at a school and the procedure by which a child may be withdrawn from a school at which he is a registered pupil^{F8}. . . .

Para. (4) rep. by 1996 NI 1

F6 1987 NI 2
F7 1989 NI 20
F8 1996 NI 1

[^{F9}Suspension and expulsion of pupils

49.—(1) Each board shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from schools under its management.

(2) The Council for Catholic Maintained Schools shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools.

(3) The Board of Governors of—

- (a) a voluntary school (other than a Catholic maintained school);
- (b) a grant#maintained integrated school,

shall prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school.

(4) A scheme prepared under paragraph (1), (2) or (3) shall provide that a pupil may be expelled from a school only by the expelling authority and shall include provision for such other matters as may be prescribed.

(5) In this Article “the expelling authority” means—

- (a) in relation to a pupil in a controlled school, the board responsible for the management of the school; and
- (b) in relation to a pupil in any other grant-aided school, the Board of Governors of the school.

(6) Every board shall make arrangements for enabling—

- (a) the parent of a pupil at a grant-aided school situated in the area of the board; or
- (b) if the pupil has attained the age of 18 years, the pupil himself,

to appeal against any decision of an expelling authority to expel the pupil from the school.

(7) Any appeal by virtue of paragraph (6) shall be to an appeal tribunal constituted in accordance with regulations under paragraph (10).

(8) On the hearing of an appeal under this Article the appeal tribunal may—

- (a) allow the appeal and direct that the pupil be re#admitted to the school; or
- (b) dismiss the appeal.

(9) It shall be the duty of the expelling authority and, in the case of a pupil expelled from a controlled school, the Board of Governors of the school to comply with any direction given under paragraph (8)(a).

(10) The Department shall by regulations provide for the constitution and procedure of appeal tribunals and, without prejudice to the generality of the foregoing, such regulations—

- (a) shall provide for an appeal tribunal to consist of a prescribed number of persons selected in the prescribed manner from a panel of persons appointed by the board to act as members of appeal tribunals under this Article;
- (b) may provide for disqualifying prescribed persons or descriptions of person for membership of an appeal tribunal;
- (c) may contain provision requiring an appeal tribunal to hear and determine an appeal within such period as may be specified in, or determined in accordance with, the regulations;
- (d) may provide for two or more appeal tribunals to sit at the same time;
- [may provide for an appeal tribunal in considering an appeal to have regard in particular
- ^{F10}(da) to any matters specified in the regulations;
- (db) may provide for appeal tribunals to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;]
- (e) may provide that all matters relating to the procedure on appeals which are not specifically regulated by the regulations shall be determined by the board.

(11) An appeal tribunal shall not be regarded as a committee of the board.

(12) Article 79(1) shall apply to members of an appeal tribunal in like manner as it applies to members of a board.]

F9 1993 NI 12

F10 2003 NI 12

Art. 49A rep. by 2003 NI 12

Provisions to assist persons to take advantage of educational facilities

Provision of awards by boards

Paras. (1), (2) rep. by 1998 NI 14

(3) A board may make such^{F12}. . . awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them being awards of such amount, to, or in respect of, persons of such description and granted on such conditions as have been approved by the Department.

F11 certain functions transf. by SR 1999/481

F12 1998 NI 14

Status: Point in time view as at 01/01/2006.

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[^{F13} Provision of awards by Department

51 ^{F14}.—(1) The Department may make—

- (a) awards to, or in respect of, persons in respect of their attendance at—
 - (i) approved postgraduate courses at universities, colleges or other institutions; or
 - (ii) other approved courses, being courses which, in the opinion of the Department, are comparable to postgraduate courses; and
- (b) such other awards as it considers desirable for the purpose of enabling or encouraging persons to take advantage of educational facilities available to them.

(2) Awards under this Article shall be of such amount, and be made to, or in respect of, such persons on such terms and conditions, as the Department may determine.]

F13 1996 NI 1

F14 certain functions transf. by SR 1999/481

[^{F15} Provision of transport for, and payment of travelling expenses of, certain pupils

52 ^{F16}.—(1) A board shall make such arrangements for the provision of transport and otherwise as it considers necessary or as the Department may direct for the purpose of facilitating—

- (a) the attendance of pupils at grant-aided schools; and
- (b) the attendance of relevant pupils at institutions of further education;

and any transport provided under such arrangements shall be provided free of charge.

(2) Arrangements made by a board under paragraph (1) (other than arrangements made in pursuance of a direction of the Department) shall be subject to the approval of the Department.

(3) A board may, in accordance with arrangements approved by the Department, provide transport for, or pay the whole or part of the reasonable travelling expenses of—

- (a) pupils attending grant-aided schools; and
- (b) relevant pupils attending institutions of further education,

for whom the board is not required to make provision under arrangements made under paragraph (1).

(4) In paragraphs (1) and (3) “relevant pupils” means pupils of a class or description specified by the Department for the purposes of this Article.

(5) Any arrangements under paragraph (3) shall include provision—

- (a) for the board to make charges (payable by the parents of the pupils concerned) in respect of transport provided under that paragraph; and
- (b) as to the cases in which, and the extent to which, such charges are to be remitted by the board.

(6) With a view to assisting in the prevention of accidents, a board may carry into effect such measures as may be set out in a scheme framed by the board and approved by the Department.]

F15 1997 NI 5

F16 certain functions transf. by SR 1999/481

Provision of board and lodging otherwise than at school

53.—(1) Where a board is satisfied with respect to any pupil who has not attained the age of eighteen years and is ordinarily resident within its area—

- (a) that primary or secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and
- (b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board may provide such board and lodging for him.

(2) In providing board and lodging for a pupil under paragraph (1) a board shall, as far as practicable, give effect to the wishes of the parent of the pupil with respect to the religious denomination of the person with whom he is to reside.

(3) Where a board provides board and lodging under paragraph (1) for a pupil, the parent of the pupil shall, subject to paragraphs (4) and (5), pay to the board the cost to the board of providing the board and lodging.

(4) A board may remit the whole or part of the cost payable under paragraph (3).

(5) Paragraph (3) shall not apply where the board and lodging is provided for a pupil to facilitate special educational provision for him.

(6) Any sums payable to a board by virtue of paragraph (3) may be recovered summarily by the board as a debt due to it.

Payment of whole or part of cost of board and lodging otherwise than at school for pupils aged 18 and over

54. Where a board is satisfied with respect to any pupil who has attained the age of eighteen years and is ordinarily resident within its area—

- (a) that secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular grant-aided school; and
- (b) that such education cannot be so provided for him unless board and lodging is provided for him otherwise than at that school,

the board—

(i) shall, in any case where the board and lodging is provided for a pupil to facilitate special educational provision for him, pay the whole of the cost of such board and lodging;

(ii) may, in any other case, pay the whole or part of the cost of such board and lodging.

Art. 55 rep. by 1997 NI 15

Art. 56 rep. by 1989 NI 20

Provision of books and materials and payment of examination fees by boards

Para. (1) rep. by 1989 NI 20

(2) A board may, with the approval of the Department, pay any necessary fees in connection with examinations taken by pupils attending any grant-aided school.

Status: Point in time view as at 01/01/2006.

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Provision of food and clothing

Provision of milk, meals and related facilities

58.—(1) A board shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at grant-aided schools, other than voluntary grammar schools^{F17} and grant#maintained integrated schools]^{F17} . . . ;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

Para. (2) rep. by 1997 NI 15

(3) A board may, with the consent of the proprietor of any independent school in its area, and on such financial and other terms, if any, as may be agreed between the board and the proprietor of the school, make arrangements for securing the provision of milk, meals or other refreshment for pupils in attendance at the school but any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by a board in connection with the provision under the arrangements of any service or article shall not exceed the expense which would have been incurred by it in the provision thereof if the pupil had been a pupil at a grant-aided school.

(4) A board may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine not being pupils for whom the board is required to make provision under paragraph (1) or may make provision under paragraph^{F18} . . . (3).

(5) The trustees or Board of Governors of a voluntary grammar school]^{F17} and the Board of Governors of a grant#maintained integrated school]^{F17} . . . shall, in accordance with arrangements approved by the Department, provide—

- (a) milk, meals or other refreshment for pupils of such description as the Department may determine in attendance at the school;
- (b) such facilities as the Department may determine for the consumption of any meals or other refreshment brought to the school by pupils.

(6) The trustees or Board of Governors of a voluntary grammar school]^{F17} and the Board of Governors of a grant#maintained integrated school]^{F17} . . . may, in accordance with arrangements approved by the Department, provide milk, meals or other refreshment for persons (including pupils) of such description as the Department may determine, not being pupils for whom they are required to make provision under paragraph (5).

(7) A board may assist the trustees or Board of Governors of a voluntary grammar school]^{F17} and the Board of Governors of a grant#maintained integrated school]^{F17} . . . in the carrying out of their functions under paragraphs (5) and (6).

^{F17}(8) Where a school has a delegated budget under^{F19} Part V of the 1989 Order and an allowance is made for expenditure on, or in connection with, the provision of milk, meals or other refreshment in determining the school's budget share under that Part—

- (a) paragraph (1) shall not apply in relation to pupils in attendance at the school; but
- (b) paragraphs (5), (6) and (7) and Article 59 (except paragraph (4)) shall apply to the school as those provisions apply to a voluntary grammar school.]

F17 1989 NI 20

F18 1997 NI 15

F19 prosp. subst. by 1998 NI 13

Provisions supplementary to Article 58

59.—(1) The approval of the Department to any arrangements under paragraph (1),^{F20} . . . (4), (5) or (6) of Article 58 may be granted subject to such conditions for securing the proper and efficient operation of those arrangements as the Department may determine.

(2) [^{F21}A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant#maintained integrated school]^{F21} . . . shall in connection with the exercise of any functions under Article 58—

- (a) make such charges, if any, or charges calculated on such basis; and
- (b) remit the whole or part of such charges in such cases or such circumstances,

as the Department may determine.

(3) The Department may, in such circumstances as it thinks fit,^{F21} direct—

- (a) that paragraph (1) of Article 58 shall not apply to a board;
- (b) that paragraph (5) of Article 58 shall not apply to the trustees or Board of Governors of a voluntary grammar school or to the Board of Governors of a grant#maintained integrated school.]

^{F21}

(4) [^{F21}A board, the trustees or Board of Governors of a voluntary grammar school and the Board of Governors of a grant#maintained integrated school]^{F21} . . . shall take such steps and provide such premises, equipment, materials and facilities (including transport) as are necessary in connection with the provision of milk, meals or other refreshment in accordance with Article 58.

(5) The trustees and managers of every voluntary school, other than a voluntary grammar school^{F21} . . . , shall afford a board all such reasonable facilities at the school, including the use of school buildings and equipment, as are necessary for the proper and efficient operation of any arrangements approved under Article 58.

F20 1997 NI 15

F21 1989 NI 20

Provision of clothing etc. for pupils attending grant-aided schools or institutions of further education

60 ^{F22}.—(1) Subject to a scheme which shall be framed by a board and approved by the Department, where it appears to the board that a pupil at a grant-aided school or institution of further education, being a pupil of such description as is specified in the scheme, is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school or institution, the board shall provide such pupil with or contribute towards the cost of the provision of such clothing as is specified in the scheme and is in the opinion of the board necessary to ensure that he is adequately and suitably clad.

(2) A scheme under paragraph (1) shall also, subject to such conditions as are specified in the scheme, authorise a board to defray the expenses of such pupils attending the school or institution as are specified in the scheme being expenses which in the opinion of the board are necessary to enable those pupils to take part in the activities of the school or institution without hardship to themselves or to their parents.

(3) A board may, in accordance with the provisions of the scheme under paragraph (1), recover from the parent of a pupil the whole or part of the expenditure incurred under the scheme in respect of the pupil provided such recovery can be made without causing hardship to the parent.

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(4) A parent who is aggrieved by any action taken by a board under a scheme under paragraph (1) may appeal to the Department whose decision shall be final.

(5) A board may lend to pupils without charge articles of clothing suitable for physical education.

F22 certain functions transf. by SR 1999/481

Medical and dental inspection and medical examination

Facilities for medical and dental inspection, etc.

61.—(1) Trustees and managers of grant-aided schools shall afford reasonable facilities for^{F23} such inspection, supervision and education as is provided for under paragraph (1) or (1A) of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1972].

Para. (2) rep. by 1988 NI 24

F23 1988 NI 24

Power of Department as to medical examination

62^{F24}.—(1) Where, in the opinion of the Department the examination of a child or young person by a person appointed by the Department for the purpose would assist it to determine any question referred to it under^{F25} the Education Orders], the Department may, by notice in writing served on the parent of the child or young person, require the parent to submit the child or young person for such an examination.

(2) The parent of a child or young person examined under paragraph (1) shall be entitled to be present at the examination if he so desires.

(3) Where a parent on whom a notice is served under paragraph (1) fails without reasonable excuse to comply with the requirements of the notice, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

F24 certain functions transf. by SR 1999/481

F25 1989 NI 20

Employment of children and young persons

Adaptation of enactments relating to the employment of children or young persons

63.—(1) For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of this Order over compulsory school age shall be deemed to be a child within the meaning of that enactment.

(2) Notwithstanding the provisions of any other enactment, a child may, to the like extent and subject to the like conditions as a young person be employed in employment in pursuance of arrangements made or approved by a board for the purpose of giving that child work experience as part of his education^{F26} but may be so employed only—

- (a) in the school year in which he ceases to be of compulsory school age; and
- (b) in the school year immediately preceding that year.]

(3) In paragraph (2)—

Definition rep. by 1993 NI 12

Definition rep. by 1998 NI 13

[^{F26}“school year” means a year ending on 31st July;]

“work experience” means the participation of children in employment in industrial, commercial, public authority and statutory undertakings, the object of which is to give to the children a greater understanding of the conditions, disciplines and relationships in those undertakings.

F26 1998 NI 13

Power of boards to prohibit or restrict employment of children

64.—(1) If it appears to a board that a child who is a registered pupil at a school is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him, the board may, by notice in writing served on the employer, prohibit him from employing the child or impose such restrictions on his employment of the child as appears to it to be expedient in the interests of the child.

(2) A board may, by notice in writing served on the parent or employer of a child who is a registered pupil at a school, require the parent or employer to furnish to the board, within such time as may be specified in the notice, such information as appears to the board to be necessary for the purpose of enabling it to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.

(3) Any person who employs a child in contravention of any prohibition or restriction imposed under paragraph (1) or who fails to comply with a notice served under paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(4) If it is made to appear to a court of summary jurisdiction on the complaint of an officer of a board that there is reasonable cause to believe that a child who is a registered pupil at a school is employed in contravention of a prohibition or restriction imposed under paragraph (1) in any place whether a building or not, the court may by order addressed to an officer of the board empower him to enter such place at any reasonable time within forty-eight hours of the making of the order and to make inquiries therein with respect to the child.

(5) Any person who obstructs an officer of a board in the due exercise of any powers conferred on him by or under this Article or who refuses to answer or answers falsely any inquiry authorised by or under this Article to be made shall be guilty of an offence and liable on summary conviction in respect of each offence to a fine not exceeding level 2 on the standard scale.

(6) Proceedings under this Article may be brought by or in the name of an officer of a board.

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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