

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 676** Session of
2005

INTRODUCED BY CONTI, TOMLINSON, RAFFERTY, LOGAN, KITCHEN, COSTA,
O'PAKE, STACK AND WONDERLING, MAY 10, 2005

SENATOR RHOADES, EDUCATION, AS AMENDED, OCTOBER 25, 2005

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for school health
6 services definitions, for health services, for dental
7 examinations and dental hygiene services, for facilities, for
8 examinations and for recommendations of health professionals;
9 deleting provisions relating to examination by family
10 physician or dentist; and further providing for care and
11 treatment of school-age children, for precautions against
12 spread of certain diseases, for medical examination of school
13 personnel and for advisory health councils.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 1401 of the act of March 10, 1949
17 (P.L.30, No.14), known as the Public School Code of 1949,
18 amended or added July 15, 1957 (P.L.937, No.404), August 9, 1963
19 (P.L.641, No.339), and November 30, 2004 (P.L.1471, No.187), is
20 amended to read:

21 Section 1401. Definitions.--As used in this article--

22 (1) "Children of school age" or "child of school age" means
23 every child attending or who should attend an elementary grade

1 or high school, either public or private, within the
2 Commonwealth and children who are attending a kindergarten which
3 is an integral part of a local school district.

4 (2) "Teachers" means professional employes, temporary
5 professional employes and substitutes and instructors in public
6 or private schools within the Commonwealth.

7 (3) "Other employes" means janitors, bus drivers, cooks and
8 other cafeteria help and all others employed at schools.

9 (4) "School physician" means a physician [legally qualified]
10 licensed to practice medicine and surgery or osteopathy or
11 osteopathic surgery in the Commonwealth, who has [been appointed
12 or approved by the Secretary of Health] contracted with a school
13 district or joint school board to provide school physician
14 services.

15 (5) "School dentist" means a [doctor of dental surgery or
16 dental medicine legally qualified] dentist licensed to practice
17 dentistry in the Commonwealth, who has [been appointed or
18 approved by the Secretary of Health.] contracted with a school
19 district or joint school board to provide school dentist
20 services.

21 (6) ["Family physician" means either a doctor of medicine
22 legally qualified to practice medicine and surgery in the
23 Commonwealth, or an osteopath or osteopathic surgeon legally
24 qualified to practice osteopathy or osteopathic surgery in the
25 Commonwealth, who has been designated by the parent or guardian
26 as the personal physician of the child.] "Primary care provider"
27 means a physician licensed to practice medicine and surgery or
28 osteopathic medicine and surgery, or other individual licensed
29 or certified to practice in the Commonwealth who works in
30 collaboration with and under the direction of a physician, who

1 has been designated by the parent or guardian as the primary
2 care provider of the child.

3 (7) "[Family] Private dentist" means a [doctor of dental
4 surgery or dental medicine legally qualified] dentist licensed
5 to practice dentistry in the Commonwealth, who has been
6 designated by the parent or guardian as the [personal] primary
7 dentist of the child.

8 (8) "School nurse" means a [licensed] registered nurse
9 [properly certificated by the Superintendent of Public
10 Instruction as a school nurse] licensed to practice professional
11 nursing in the Commonwealth and certified by the Department of
12 Education as a school nurse, who is employed by a school
13 district or joint school board as a school nurse, or is employed
14 in providing school nurse services to children of school age by
15 a county health unit or a department or board of health of any
16 municipality with which a school district or joint school board
17 has contracted for school health services pursuant to the
18 provisions of section 1411 of this act. The employment of any
19 nurse employed by a school district or joint school board as a
20 school nurse prior to the effective date of this act shall not
21 be affected by a contract for school health services that may be
22 entered into by any school district or joint school board under
23 the provisions of this act.

24 (9) "Dental hygienist" means a dental hygienist licensed [by
25 the State Dental Council and Examining Board,] TO PRACTICE <—
26 DENTAL HYGIENE IN THIS COMMONWEALTH who is assigned to a school
27 district or joint school board, or a dental hygienist licensed
28 [by the State Dental Council and Examining Board and <—
29 certificated as a school dental hygienist by the Superintendent
30 of Public Instruction,] to practice dental hygiene IN THIS <—

1 COMMONWEALTH AND CERTIFICATED BY THE DEPARTMENT OF EDUCATION AS
2 A SCHOOL DENTAL HYGIENIST who is employed by a school district
3 or joint school board as a dental hygienist. The employment of
4 any dental hygienist employed by a school district or joint
5 school board as a dental hygienist prior to the effective date
6 of this act shall not be affected by a contract for school
7 health services that may be entered into by any school district
8 or joint school board under the provisions of this act.

9 (10) ["Medical technician" means a person skilled in the
10 operation of X-ray or other diagnostic equipment having such
11 training and experience as required by the Secretary of Health.]

12 "Health care assistant" means a licensed or unlicensed
13 individual who assists the school nurse, school physician,
14 school dentist or other qualified health professional by
15 performing assigned duties and who has no pupil assignments.

16 (11) ["Sanitarian" means a person having such training and
17 experience as required by the Secretary of Health and qualified
18 to conduct sanitary inspections of school buildings and grounds
19 in connection with water supply, sewage and refuse disposal,
20 food service, heating, lighting, ventilation and safety.]

21 "Qualified health professional" means an individual who holds a
22 license or certification issued by the Commonwealth which allows
23 for the performance of a physical or dental examination or
24 evaluation.

25 (12) "Asthma inhaler" means a prescribed device used for
26 self-administration of short-acting, metered doses of prescribed
27 medication to treat an acute asthma attack.

28 Section 2. Section 1402 of the act, amended or added July
29 15, 1957 (P.L.937, No.404), August 9, 1963 (P.L.642, No.340) and
30 December 7, 1965 (P.L.1041, No.390), is amended to read:

1 Section 1402. Health Services.--(a) [Each] A school
2 district or joint school board shall provide the following to
3 each child of school age [shall be given by methods established
4 by the Advisory Health Board], in accordance with guidelines
5 issued by the Department of Health:

6 (1) a vision [test by a school nurse, medical technician or
7 teacher,] screening;

8 (2) a hearing [test by a school nurse or medical technician,]
9 screening;

10 (3) a [measurement of height and weight by a school nurse or
11 teacher,] growth screening;

12 (4) [tests for tuberculosis under medical supervision,] a
13 scoliosis screening; and

14 (5) such other tests as the [Advisory Health Board]
15 Department of Health may deem advisable to protect the health of
16 the child. [Vision tests shall be given at least annually and
17 other tests at intervals established by the Advisory Health
18 Board.]

19 A school district or joint school board shall make information
20 available to the parent or guardian of each child informing the
21 parent or guardian of the health screenings to be performed
22 during the school year. School nurses and other qualified health
23 professionals as deemed appropriate by the Department of Health
24 shall be authorized to perform screenings under this section.

25 (a.1) Every child of school age shall be provided with
26 school nurse services: Provided, however, That the number of
27 pupils under the care of each school nurse shall not exceed [one
28 thousand five hundred (1,500)] seven hundred fifty (750).

29 (b) [For each child of school age, a comprehensive health
30 record shall be maintained by the school district or joint

1 school board, which shall include the results of the tests,
2 measurements and regularly scheduled examinations and special
3 examinations herein specified.] A school district or joint
4 school board shall maintain for each child of school age a
5 health record which shall include the following:

6 (1) a record of immunization as required by Article XIII;

7 (2) a health history;

8 (3) results of all screenings and measurements;

9 (4) results of regularly scheduled and special examinations;

10 (5) documentation of special health care needs and plans of
11 care; and

12 (6) other information as specified by the Department of
13 Health.

14 (b.1) Health records shall be maintained on forms prescribed
15 by or approved by the Department of Health.

16 (c) [Medical questionnaires, suitable for diagnostic
17 purposes, furnished by the Secretary of Health and completed by
18 the child or by the child's parent or guardian, at such times as
19 the Secretary of Health may direct, shall become a part of the
20 child's health record.] The health record shall include a family
21 health history, completed by the child's parent or guardian. The
22 health history shall be required upon entry into school and
23 prior to or concurrent with all other required physical
24 examinations. The health history shall be completed on forms
25 provided by the Department of Health and shall become part of
26 the student's school health record.

27 (d) All teachers and other employes shall report to the
28 school nurse [or], school physician or school dentist any
29 unusual behavior, changes in physical appearance, changes in
30 attendance habits and changes in scholastic achievement, which

1 may indicate impairment of a child's health. The school nurse or
2 school physician or school dentist may, upon referral by the
3 teacher or other employe or on his own initiative, advise a
4 child's parent or guardian of the apparent need for a special
5 medical or dental examination. If a parent or guardian fails to
6 obtain the examination or fails to report the results to the
7 [nurse or school physician] school nurse, school physician or
8 school dentist, the [nurse or school physician] school nurse,
9 school physician or school dentist shall arrange, in
10 collaboration with the parent or guardian, a special [medical]
11 physical or dental examination for the child.

12 (e) [The school physicians of each district or joint board
13 shall make a medical examination and a comprehensive appraisal
14 of the health of every child of school age, (1) upon original
15 entry into school in the Commonwealth, (2) while in sixth grade,
16 (3) while in eleventh grade, and (4) prior to the issuance of a
17 farm or domestic service permit unless the child has been given
18 a scheduled or special medical examination within the preceding
19 four months. The health record of the child shall be made
20 available to the school physician at the time of the regularly
21 scheduled health appraisals.] A school district or joint school
22 board shall ensure evidence of a physical examination of every
23 child of school age:

24 (1) within one year prior to original entry into school;
25 (2) one year before or during the fourth grade;
26 (3) one year before or during the eighth grade;
27 (4) one year before or during the eleventh grade; and
28 (5) prior to the issuance of an employment certificate, or
29 farm or domestic service permit.

30 (e.1) A physical examination under subsection (e) shall be

1 performed by the child's own primary care provider and the
2 parent or guardian shall provide the results of the physical
3 examination to the school district or joint school board. If the
4 parent or guardian does not provide the results of the physical
5 examination prior to the deadline established by the school
6 district or joint school board for the conduct of the
7 examination, the school district or joint school board shall
8 schedule the child to be examined by a qualified health
9 professional designated by the school district or joint school
10 board.

11 (f) The Secretary of Health, upon petition of the school
12 board or joint school board or on his own initiative with the
13 concurrence of the school board or joint school board, may
14 [modify for individual school districts] approve a modification
15 to the school health services program specified in this
16 [section] this article. [The program as modified shall conform
17 to approved medical or dental practices and shall permit valid
18 statistical appraisals of the various components of the
19 program.] Modifications must conform to generally accepted
20 standards of medical, dental and nursing practices.

21 Section 3. Section 1403 of the act, amended August 27, 1963
22 (P.L.1380, No.535), is amended to read:

23 Section 1403. Dental Examinations and Dental Hygiene
24 Services.--(a) [All children of school age in the Commonwealth,
25 (i) upon original entry into the school, (ii) while in the third
26 grade, and (iii) while in the seventh grade, shall be given a
27 dental examination by a school dentist: Provided, however, That
28 this requirement shall not apply to those school districts or
29 joint school boards which have instituted a program of dental
30 hygiene services as provided in subsection (b) of this section.]

A school district or joint school board shall ensure evidence of a dental examination of every child of school age:

(1) within one year prior to original entry into school;

(2) one year before or during the third grade; and

(3) one year before or during the seventh grade.

(a.1) A dental examination under subsection (a) shall be performed by the child's own private dentist and the parent or guardian shall provide the results of the dental examination to the school district or joint school board. If the parent or guardian does not provide the results of the dental examination prior to the deadline established by the school district or joint school board for the conduct of the examination, the school district or joint school board shall schedule the child to be examined by a school dentist. The school district or joint school board shall inform the parent or guardian of the date and time of the scheduled dental examination and shall obtain the prior written consent of the parent or guardian.

(b) Any school district or joint school board may institute a program of dental hygiene services for children of school age, which program shall be approved by the [Secretary] Department of Health, and for that purpose may employ dental hygienists.

Section 4. Sections 1404 and 1405 of the act, added July 15, 1957 (P.L.937, No.404), are amended to read:

Section 1404. [Place of Examination; Use of Hospital Facilities.--The school physician and school dentist shall conduct medical, dental and other examinations in rooms set aside for this special purpose and equipped with adequate facilities and with such other accessories as may be required by the Secretary of Health for the thorough examination of children. The school physicians shall require the removal of

1 sufficient clothing to insure complete examination. If
2 facilities in schools are inadequate for conducting medical,
3 dental and other examinations, the school districts or joint
4 school boards and private schools may, subject to the approval
5 of the Secretary of Health, make arrangements for the use of
6 laboratories and facilities of hospitals or clinics for
7 examinations herein provided for.] Facilities for Delivery of
8 Health Services.--Health services delivered to children of
9 school age by school health program staff shall be provided in
10 rooms or facilities set aside for this purpose and equipped to
11 meet minimum standards as required by the Department of Health.
12 A school district or joint school board may, subject to the
13 approval of the Department of Health, make arrangements for the
14 use of alternate facilities for the provision of health
15 services.

16 Section 1405. [Assistance; Presence of Parents.--Every
17 school physician shall be assisted by a school nurse and every
18 school dentist by a dental hygienist, if available, or trained
19 assistant, who shall be present during each examination. Parents
20 or guardians of children of school age shall be advised in
21 advance of the date of examination and urged to be present.

22 Medical examinations shall be made in the presence of the parent
23 or guardian of the child when so requested by the parent or

24 guardian.] Physical Examinations and Oral Health Examinations or <—

25 Screenings DENTAL EXAMINATIONS by Qualified Health <—

26 Professionals.--(a) A qualified health professional designated
27 by a school district or joint school board shall perform an
28 examination only when the parent or guardian of a child of
29 school age fails to obtain a private examination within the time
30 frames specified by the school district or joint school board. A

1 school nurse, dental hygienist or health care assistant shall
2 assist the qualified health professional during the examination.
3 A school with a dental hygiene services program may permit a
4 school nurse or health care assistant to assist during a dental
5 screening.

6 (b) A school district or joint school board shall advise the
7 parent or guardian of a child in advance of the date, time and
8 place of an examination ~~or screening~~ and invite the parent or <—
9 guardian to be present. An examination ~~or screening~~ shall be <—
10 made in the presence of the parent or guardian of a child when
11 the parent or guardian requests to be present. A school district
12 or joint school board shall obtain the prior written consent of
13 the parent or guardian before a qualified health professional
14 conducts an examination ~~or screening~~. <—

15 (c) A qualified health professional performing an
16 examination ~~or screening~~ shall have access to a child's health <—
17 record maintained by the school. The results of the examination
18 ~~or screening~~ shall be recorded on forms prescribed or approved <—
19 by the Department of Health and included in a child's health
20 record.

21 Section 5. Section 1406 of the act, amended December 9, 2002
22 (P.L.1317, No.153), is amended to read:

23 Section 1406. [Recommendations.--(a) Recommendations as to
24 medical, surgical or dental care shall be sent to each parent or
25 guardian and to the family physician or family dentist on forms
26 prepared or approved by the Secretary of Health with
27 instructions to the parent or guardian to consult the family
28 physician or family dentist and to notify the school authorities
29 of the action taken with respect to the recommendations.

30 (b) School physicians or school nurses shall inform teachers

1 of the health conditions of pupils which may affect behavior,
2 appearance or scholastic performance.] Referral for Evaluation
3 and Treatment.--(a) A IN THE EVENT THE SCHOOL DISTRICT OR JOINT <—
4 SCHOOL BOARD PROVIDES THE PHYSICAL OR DENTAL EXAMINATION, THE
5 school district or joint school board shall send the
6 recommendation of a qualified health professional for further
7 evaluation or treatment of a child to the child's parent or
8 guardian with instructions to the parent or guardian to consult
9 the child's primary care provider, private dentist or other
10 appropriate health care provider and to notify the school nurse
11 of the action taken with respect to the recommendation.

12 (c) Notice of the existence of and eligibility for the
13 program under Article XXIII of the act of May 17, 1921 (P.L.682,
14 No.284), known as "The Insurance Company Law of 1921," shall be
15 prepared by, paid for and provided to each school district in
16 Pennsylvania by the Insurance Department annually, not later
17 than the fifteenth day of August, in sufficient quantities to
18 provide the parent or legal guardian of every school student
19 enrolled in the district with such notice. The school district
20 shall provide such notice to the parent or guardian of each
21 student enrolled in the district during the school year. The
22 Insurance Department shall provide sufficient copies of the
23 notice to nonpublic schools upon request.

24 Section 6. Section 1407 of the act is repealed.

25 Section 7. Sections 1414 and 1416 of the act, added July 15,
26 1957 (P.L.937, No.404), are amended to read:

27 Section 1414. [Care and Treatment of Pupils] Ancillary
28 Health Services.--Any school district or joint school board may
29 provide for the health care and treatment of [defective eyes,
30 ears and teeth of] all children of school age within the

1 district if the school district or joint school board has
2 obtained prior written consent of the child's parent or
3 guardian.

4 Section 1416. [Precautions Against Spread of Tuberculosis.--
5 No person having any form of tuberculosis in a transmissible
6 stage shall be a pupil, teacher, janitor or any other employe in
7 any school except in a special school carried on under the
8 regulations made for such schools by the Secretary of Health.
9 The board of directors of any school district or joint school
10 board may appropriate the necessary funds to pay for X-ray or
11 other medical examinations to determine the presence or absence
12 of tuberculosis in any teacher, janitor or other employe of the
13 district.] Precautions Against the Spread of Communicable
14 Disease.--A student or any person having direct contact with
15 students having or suspected of having a communicable disease,
16 infection or condition listed in 28 Pa. Code § 27.71 (relating
17 to exclusion of children, and staff having contact with children
18 for specified diseases and infectious conditions), 27.72
19 (relating to exclusions of children, and staff having contact
20 with children, for showing symptoms) and 27.75 (relating to
21 exclusion of children, and staff having contact with children,
22 during a measles outbreak) shall be excluded from school in
23 accordance with the applicable regulation. Readmission to school
24 shall be governed by 28 Pa. Code § 27.71, 27.73 (relating to
25 readmission of excluded children, and staff having contact with
26 children) or 27.74 (relating to readmission of exposed or
27 isolated children, and staff having contact with children), as
28 applicable. A school district or joint school board may
29 appropriate the necessary funds to pay for examinations and
30 testing to determine the presence or absence of a communicable

1 disease.

2 Section 8. Section 1418 of the act, amended July 14, 1971
3 (P.L.229, No.47), is amended to read:

4 Section 1418. [Medical Examinations of Teachers and Other
5 Persons.--(a) All teachers, janitors, cooks and other cafeteria
6 help and all others employed at schools shall be required to
7 take a pre-employment medical examination, the results of which
8 shall be recorded on forms prescribed by the Secretary of Health
9 and shall be made available to the employing authorities.

10 (b) Each teacher, any other school employe and any person
11 providing services for school children under contract shall be
12 given tests for tuberculosis in accordance with rules and
13 regulations adopted by the Advisory Health Board. Each student
14 teacher and volunteer participating in student activities shall
15 be given the same tests for tuberculosis, but no person shall be
16 required to submit to a particular test if he shall furnish a
17 statement setting forth adequate reasons for being excused from
18 taking the test. In such case, an alternative method of testing
19 shall be administered.

20 (c) School boards may require a special medical examination
21 for any school employe at any time.† <—

22 (D) MEDICAL EXAMINATIONS SHALL BE MADE BY THE SCHOOL <—
23 PHYSICIAN OF THE DISTRICT IF PROVISION THEREFOR IS MADE BY THE
24 DISTRICT OR JOINT SCHOOL BOARD OR BY A PHYSICIAN OF THE
25 EMPLOYE'S OWN CHOICE LEGALLY QUALIFIED TO PRACTICE MEDICINE AND
26 SURGERY OR OSTEOPATHY OR OSTEOPATHIC SURGERY IN THE

27 COMMONWEALTH.] Health Evaluations of School Personnel.--(a) A
28 school district or joint school board shall insure that each
29 teacher and other employe, prior to beginning work, provides
30 documentation on a form prescribed or approved by the Department

of Health evidencing a physical examination performed by a
qualified health professional within one (1) year prior to the
person's start date. The results of the physical examination
shall include information showing that the individual was
evaluated for tuberculosis risk factors and for other
communicable diseases listed in 28 Pa. Code § 27.71 (relating to
exclusion of children, and staff having contact with children,
for specified diseases and infectious conditions), § 27.72
(RELATING TO EXCLUSION OF CHILDREN, AND STAFF HAVING CONTACT
WITH CHILDREN, FOR SHOWING SYMPTOMS) AND § 27.75 (RELATING TO
EXCLUSION OF CHILDREN, AND STAFF HAVING CONTACT WITH CHILDREN,
DURING A MEASLES OUTBREAK) and tested as necessary.

(b) A school district or joint school board shall insure
that each individual, including a volunteer, who will have
direct contact with students for ten (10) or more hours weekly,
be evaluated prior to contact with students for tuberculosis
risk factors and other communicable diseases AS LISTED IN 28 PA.
CODE §§ 27.71, 27.72 AND 27.75 and tested as necessary.

Documentation shall be provided on a form prescribed or approved
by the Department of Health.

~~(d) [Medical examinations] The physical examination and~~
~~evaluation for tuberculosis risk factors and other communicable~~
~~diseases shall be made by the school physician or other~~
~~qualified health professional of the district if [provision~~
~~therefor is made by] the district or joint school board chooses~~
~~or by a [physician] qualified health professional of the~~
~~[employee's] person's own choice [legally qualified to practice~~
~~medicine and surgery or osteopathy or osteopathic surgery in the~~
~~Commonwealth].~~

(C) SCHOOL BOARDS MAY REQUIRE A SPECIAL MEDICAL EXAMINATION

1 FOR ANY SCHOOL EMPLOYE AT ANY TIME.

2 (D) THE PHYSICAL EXAMINATION AND EVALUATION FOR TUBERCULOSIS
3 RISK FACTORS, OTHER COMMUNICABLE DISEASES AND SPECIAL MEDICAL
4 EXAMINATIONS SHALL BE MADE BY THE SCHOOL PHYSICIAN, OR OTHER
5 QUALIFIED HEALTH PROFESSIONAL OF THE DISTRICT, OR BY A QUALIFIED
6 HEALTH PROFESSIONAL OF THE EMPLOYE'S OWN CHOICE.

7 ~~Section 9. Section 1422 of the act, amended January 14, 1970~~ <—
8 ~~(1969 P.L.468, No.192), is amended to read:~~

9 ~~Section 1422. Advisory Health Councils. [District~~
10 ~~superintendents may set up advisory health councils to study~~
11 ~~health needs and to assist in organizing follow up programs. An~~
12 ~~advisory health council shall be composed of representatives of~~
13 ~~the medical and dental associations, social organizations,~~
14 ~~veterans' organizations, parent teacher associations, service~~
15 ~~clubs and other organizations in the area served. Those making~~
16 ~~the medical and dental examinations shall make to this advisory~~
17 ~~council an annual report, and later a report on the remedial~~
18 ~~work which has been accomplished during the school year.] School~~
19 ~~districts or joint school boards, individually or jointly, may~~
20 ~~establish an advisory health council to provide advice and~~
21 ~~support to assess health needs, initiate recommendations, and~~
22 ~~plan and evaluate programs and services that will contribute~~
23 ~~toward the health, safety and well being of the school~~
24 ~~community. School districts which receive funding through the~~
25 ~~National School Lunch Act (60 Stat. 230, 42 U.S.C. § 1751 et~~
26 ~~seq.) or the Child Nutrition Act of 1966 (Public Law 89 642, 42~~
27 ~~U.S.C. § 1771 et seq.) may establish an advisory health council~~
28 ~~to help plan, develop and implement a health and wellness plan~~
29 ~~as required by section 204 of the Child Nutrition and WIC~~
30 ~~Reauthorization Act of 2004 (Public Law 108 265, 118 Stat. 780).~~

~~Membership of the council may include representation from the following:~~

~~(1) the school district's health services program;~~

~~(2) school administration, including school board members;~~

~~(3) teachers;~~

~~(4) guidance counselors;~~

~~(5) students;~~

~~(6) parent/teacher organizations;~~

~~(7) community health providers;~~

~~(8) local public health organizations; and~~

~~(9) other entities as deemed necessary and appropriate by the school district.~~

Section ~~10~~ 9. This act shall take effect in ~~120~~ 180 days.

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