

SEC. 5233. [20 U.S.C. 7355b] RULE OF CONSTRUCTION.

Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with

(1) to meet the unique educational and culturally related academic needs of Indian students, so that such students can meet the challenging State academic standards;

(2) to ensure that Indian students gain knowledge and understanding of Native communities, languages, tribal histories, traditions, and cultures; and

(3) to ensure that teachers, principals, other school leaders,

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) COOPERATIVE AGREEMENTS.—A local educational agency may enter into a cooperative agreement with an Indian tribe under this subpart if such Indian tribe—

(A) represents not less than 25 percent of the eligible Indian children who are served by such local educational agency; and

(B) requests that the local educational agency enter into a cooperative agreement under this subpart.

(3) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(c) INDIAN TRIBES AND INDIAN ORGANIZATIONS.—

(1) IN GENERAL.—If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 6114(c)(4) for such grant, an Indian tribe, an Indian organization, or a consortium of such entities, that represents more than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) SPECIAL RULE.—

(A) IN GENERAL.—The Secretary shall treat each Indian tribe, Indian organization, or consortium of such entities applying for a grant pursuant to paragraph (1) as if such tribe, Indian organization, or consortium were a local educational agency for purposes of this subpart.

(B) EXCEPTIONS.—Notwithstanding subparagraph (A), such Indian tribe, Indian organization, or consortium shall not be subject to the requirements of subsections (b)(7) or (c)(4) of section 6114 or section 6118(c) or 6119.

(3) ASSURANCE TO SERVE ALL INDIAN CHILDREN.—An Indian tribe, Indian organization, or consortium of such entities that is eligible to apply for a grant under paragraph (1) shall include, in the application required under section 6114, an assurance that the entity will use the grant funds to provide services to all Indian students served by the local educational agency.

SEC. 6113. [20 U.S.C. 7423] AMOUNT OF GRANTS.

(a) AMOUNT OF GRANT AWARDS.—

(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

(A) the number of Indian children who are eligible under section 6117 and served by such agency; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) REDUCTION.—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

(b) MINIMUM GRANT.—

(1) IN GENERAL.—Notwithstanding subsection (e), an entity that is eligible for a grant under section 6112, and a school that is operated or supported by the Bureau of Indian Edu-

and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not

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<sup>9</sup>Probably should read "section 6152(a)". See amendment made by section 6001(b)(3)(D) of Public Law 114-95.

(ii) the community served by the local educational agency; and

(iii) the Indian tribes whose children are served by the local educational agency, consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly referred to as the "Family Educational Rights and Privacy Act of 1974"); and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A); and

(7) describes the process the local educational agency used to meaningfully collaborate with Indian tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program and the actions taken as a result of such collaboration.

(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for services described in this subsection, and not to supplant such funds;

(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart;

(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency, and meet program objectives and outcomes for activities under this subpart; and

(C) determine the extent to which such activities by the local educational agency address the unique cultural, language, and educational needs of Indian students;

(3) the program for which assistance is sought—

(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the Indian students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

(C) was developed by such agency in open consultation with parents of Indian children and teachers, representatives of Indian tribes on Indian lands located within 50 miles of any school that the agency will serve if such tribes have any children in such school, Indian organizations, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program;

- (4) the local educational agency developed the program with the participation and written approval of a committee—
- (A) that is composed of, and selected by—
    - (i) parents and family members of Indian children in the local educational agency's schools;
    - (ii) representatives of Indian tribes on Indian lands located within 50 miles of any school that the agency will serve if such tribes have any children in such school;
    - (iii) teachers in the schools; and
    - (iv) if appropriate, Indian students attending secondary schools of the agency;
  - (B) a majority of whose members are parents and family members of Indian children;
  - (C) with respect to an application describing a schoolwide program in accordance with section 6115(c), that has—
    - (i) reviewed in a timely fashion the program;
    - (ii) determined that the program will not diminish the availability of culturally related activities for In-

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- (2) improvement in the quality of implementation, content, and evaluation of activities supported under this subpart; and
  - (3) integration of activities under this subpart with other educational activities carried out by the local educational agency.

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(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

(9) be approved by a committee formed in accordance with section 6114(c)(4), if such a committee exists.

(e) **PLAN REVIEW.**—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) **PLAN APPROVAL.**—Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to rec



under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

(m) **OVERAGE.**—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

(n) **FISCAL ACCOUNTABILITY.**—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

(o) **REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.**—

(1) **PRELIMINARY REPORT.**—Not later than 2 years after the date of enactment of the Every Student Succeeds Act, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

(2) **FINAL REPORT.**—Not later than 5 years after the date of enactment of the Every Student Succeeds Act, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section.

(p) **DEFINITIONS.**—For the purposes of this section, the term "Secretary" means—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

(2) the Secretary of Education, in the case of any other entity.

**SEC. 6117. [20 U.S.C. 7427] STUDENT ELIGIBILITY FORMS.**

(a) **IN GENERAL.**—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b). All individual data collected shall be protected by the local educational agencies and only aggregated data shall be reported to the Secretary.

(b) FORMS.—The form described in subsection (a) shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 6151) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child;

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 6151.

(d) DOCUMENTATION AND TYPES OF PROOF.—

(1) TYPES OF PROOF.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 6113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(2) NO NEW OR DUPLICATIVE DETERMINATIONS.—Once a child is determined to be an Indian eligible to be counted for such grant award, the local educational agency shall maintain a record of such determination and shall not require a new or duplicate determination to be made for such child for a subsequent application for a grant under this subpart.

(3) PREVIOUSLY FILED FORMS.—An Indian student eligibility for the a





(b) ELIGIBLE ENTITIES.—In this section, the term “eligible entity” means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, a Tribal College or University (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))), or a consortium of such entities.

(c) GRANTS AUTHORIZED.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including—

(1) innovative programs related to the educational needs of educationally disadvantaged Indian children and youth;

(2) educational services that are not available to such children and youth in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the subjects of English, mathematics, science, foreign languages, art, history, and geography;

(3) bilingual and bicultural programs and projects;

(4) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children and youth;

(5) special compensatory and other programs and projects designed to assist and encourage Indian children and youth to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children and youth;

(6) comprehensive guidance, counseling, and testing services;

(7) early childhood education programs that are effective in preparing young children to make sufficient academic growth by the end of grade 3, including kindergarten and pre-kindergarten programs, family-based preschool programs that emphasize school readiness, screening and referral, and the provision of services to Indian children and youth with disabilities;

(8) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

(9) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill career;

(10) programs designed to encourage and assist Indian students to work toward, and gain entrance into, institutions of higher education;

(11) family literacy services;

(12) activities that recognize and support the unique cul-



(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

(C) PROGRESS.—The Secretary shall award grants for an initial period of not more than 3 years and may renew such grants for not more than an additional 2 years if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

(2) DISSEMINATION GRANTS.—

(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

- (i) has been adequately reviewed;
- (ii) has demonstrated educational merit; and
- (iii) can be replicated.

(3) APPLICATION.—

(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—





(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

### Subpart 3—National Activities

SEC. 6131. [20 U.S.C. 7451] NATIONAL RESEARCH ACTIVITIES.

(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available to carry out this subpart for each fiscal year to—

- (1) conduct research related to effective approaches for the education of Indian children and adults;
- (2) evaluate federally assisted education programs from which Indian children and adults may benefit;
- (3) collect and analyze data on the educational status and needs of Indians; and
- (4) carry out other activities that are consistent with the purpose of this part.

(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) COORDINATION.—Research activities supported under this section—

- (1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and
- (2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs, the Bureau of Indian Education, and the Institute of Education Sciences.

SEC. 6132. [20 U.S.C. 7452] GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING, DEVELOPMENT, AND COORDINATION.

(a) IN GENERAL.—The Secretary may award grants under this section to eligible applicants to enable the eligible applicants to—

- (1) promote tribal self-determination in education;
- (2) improve the academic achievement of Indian children and youth; and
- (3) promote the coordination and collaboration of tribal educational agencies with State educational agencies and local educational agencies to meet the unique educational and culturally related academic needs of Indian students.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE APPLICANT.—In this section, the term “eligible applicant” means—

- (A) an Indian tribe or tribal organization approved by an Indian tribe; or



(ii) existing capacity as a tribal educational agency.

(3) APPROVAL.—The Secretary may approve an application submitted by an eligible applicant under this subsection if the application, including any documentation submitted with the application—

(A) demonstrates that the eligible applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant that will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought.

(e) RESTRICTIONS.—

(1) IN GENERAL.—An Indian tribe may not receive funds under this section if the tribe receives funds under section 1140 of the Education Amendments of 1978 (20 U.S.C. 2020).

(2) DIRECT SERVICES.—No funds under this section may be used to provide direct services.

(f) SUPPLEMENT, NOT SUPPLANT.—Funds under this section shall be used to supplement, and not supplant, other Federal, State, and local programs that meet the needs of tribal students.

SEC. 6133. [20 U.S.C. 7453] NATIVE AMERICAN AND ALASKA NATIVE LANGUAGE IMMERSION SCHOOLS AND PROGRAMS.

(a) PURPOSES.—The purposes of this section are—

(1) to establish a grant program to support schools that use Native American and Alaska Native languages as the primary language of instruction;

(2) to maintain, protect, and promote the rights and freedom of Native Americans and Alaska Natives to use, practice, maintain, and revitalize their languages, as envisioned in the Native American Languages Act (25 U.S.C. 2901 et seq.); and

(3) to support the Nation's First Peoples' efforts to maintain and revitalize their languages and cultures, and to improve educational opportunities and student outcomes within Native American and Alaska Native communities.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From funds reserved under section 6152(c), the Secretary shall reserve 20 percent to make grants to eligible entities to develop and maintain, or to improve and expand, programs that support schools, including elementary school and secondary school education sites and streams, using Native American and Alaska Native languages as the primary languages of instruction.

(2) ELIGIBLE ENTITIES.—In this subsection, the term "eligible entity" means any of the following entities that has a plan to develop and maintain, or to improve and expand, programs that support the entity's use of a Native American or Alaska Native language as the primary language of instruction in elementary schools or secondary schools, or both:

(A) An Indian tribe.

- (B) A Tribal College or University (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)).
- (C) A tribal education agency.
- (D) A local educational agency, including a public charter school that is a local educational agency under State law.
- (E) A school operated by the Bureau of Indian Education.
- (F) An Alaska Native Regional Corporation (as described in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g))).
- (G) A private, tribal, or Alaska Native nonprofit organization.
- (H) A nontribal for-profit organization.
- (c) APPLICATION.—
- (1) IN GENERAL.—An eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require, including the following:
- (A) The name of the Native American or Alaska Native language to be used for instruction at the school supported by the eligible entity.
- (B) The number of students attending such school.
- (C) The number of hours of instruction in or through 1 or more Native American or Alaska Native languages being provided to targeted students at such school, if any.
- (D) A description of how the eligible entity will—
- (i) use the funds provided to meet the purposes of this section;
  - (ii) implement the activities described in subsection (e);
  - (iii) ensure the implementation of rigorous academic content; and
  - (iv) ensure that students progress toward high-level fluency goals.
- (E) Information regarding the school's organizational governance or affiliations, including information about—
- (i) the school governing entity (such as a local educational agency, tribal education agency or department, charter organization, private organization, or other governing entity);
  - (ii) the school's accreditation status;
  - (iii) any partnerships with institutions of higher education; and
  - (iv) any indigenous language schooling and research cooperatives.
- (F) An assurance that—
- (i) the school is engaged in meeting State or tribally designated long-term goals for students, as may be required by applicable Federal, State, or tribal law;
  - (ii) the school provides assessments of students using the Native American or Alaska Native language of instruction, where possible;

(iii) the qualifications of all instructional and leadership personnel at such school is sufficient to deliver high-quality education through the Native American or Alaska Native language used in the school; and

(iv) the school will collect and report to the public data relative to student achievement and, if appropriate, rates of high school graduation, career readiness, and enrollment in postsecondary education or workforce development programs, of students who are enrolled in the school's programs.

(2) LIMITATION.—The Secretary shall not give a priority in awarding grants under this section based on the information described in paragraph (1)(E).

(3) SUBMISSION OF CERTIFICATION.—

(A) IN GENERAL.—An eligible entity that is a public elementary school or secondary school (including a public charter school or a school operated by the Bureau of Indian Education) or a nontribal for-profit or nonprofit organization shall submit, along with the application requirements described in paragraph (1), a certification described in subparagraph (B) indicating that—

(i) the school or organization has the capacity to provide education primarily through a Native American or an Alaska Native language; and

(ii) there are sufficient speakers of the target language at the school or available to be hired by the school or organization.

(B) CERTIFICATION.—The certification described in subparagraph (A) shall be from one of the following entities, on whose land the school or program is located, that is an entity served by such school, or that is an entity whose



- (B) Providing professional development for teachers and, as appropriate, staff and administrators to strengthen the overall language and academic goals of the school that will be served by the grant program.
- (2) ALLOWABLE ACTIVITIES.—An eligible entity that receives a grant under this section may use such funds to carry out the following activities:
- (A) Developing or refining curriculum, including teaching materials and activities, as appropriate.
- (B) Creating or refining assessments written in the Native American or Alaska Native language of instruction that measure student proficiency and that are aligned with State or tribal academic standards.
- (C) Carrying out other activities that promote the maintenance and revitalization of the Native American or Alaska Native language relevant to the grant program.
- (f) REPORT TO SECRETARY.—Each eligible entity that receives a grant under this section shall prepare and submit an annual report to the Secretary, which shall include—
- (1) the activities the entity carried out to meet the purposes of this section; and
- (2) the number of children served by the program and the number of school children

(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

SEC. 6142. [20 U.S.C. 7472] PEER REVIEW.

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3.

SEC. 6143. [20 U.S.C. 7473] PREFERENCE FOR INDIAN APPLICANTS.

In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

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