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DHS Publishes Interim Final Rule Ending Automatic Extension of Certain EADs

Effective October 30, 2025, an [interim final rule](#) published the same day ends the automatic extension of certain Employment Authorization Documents (EADs) (Forms I-766) for those who have timely filed an application to renew an EAD in certain employment authorization categories. The Department of Homeland Security (DHS) said the rule does not affect the validity of EADs that were automatically extended before October 30, 2025, or that are otherwise automatically extended by law or through a Federal Register notice, such as for Temporary Protected Status (TPS)-related employment documentation.

DHS noted that certain situations "continue to extend the validity period of a facially expired EAD." An EAD is extended when an EAD beneficiary:

- Presents a Form I-797C, Notice of Action, receipt notice showing timely filing of a renewal EAD application before October 30, 2025. Such EADs maintain an up-to-540-day automatic extension;
- Presents an EAD that has been automatically extended by a Federal Register notice for TPS category A12 or C19 EADs; or
- Is covered under other EAD extensions provided by law, such as the Optional Practical Training [extension](#) for science, technology, engineering, and mathematics students (STEM-OPT) or the F-1 to H-1B [cap-gap](#).

Dependents who have work authorization based on their immigration status, such as L-2 and E spouses, are [not included](#) in this change. These individuals are authorized to work based on their underlying status, not the validity of an EAD. While some may still choose to apply for an EAD for documentation purposes, the expiration of that card does not terminate their work authorization, which continues as long as their status remains valid.

Employers may want to consider:

- Auditing I-9 records and establishing a renewal tracking system to identify at-risk employees.
- Communicating early with foreign national staff to ensure timely filing of renewals (which currently take seven months or more).
- Assessing/developing contingency plans for critical roles potentially affected by EAD lapses.
- Monitoring DHS updates, since the rule invites public comment, which could result in future adjustments.

Given the expected widespread impact on employers and foreign national workers, litigation is likely. [Comments](#) on the interim final rule are due by December 1, 2025.

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Presidential Determination Limits Refugee Admissions to Historic Low of 7,500 in FY 2026, Prioritizes Afrikaners From South Africa

A [Presidential Determination](#) published on October 30, 2025, limits refugee admissions in Fiscal Year (FY) 2026 to 7,500 and prioritizes Afrikaners from South Africa: "The admissions numbers shall primarily be allocated among Afrikaners from South Africa pursuant to [Executive Order 14204](#), and other victims of illegal or unjust discrimination in their respective homelands."

The latest determination follows the admission in May 2025 of a group of 49 white Afrikaners into the United States as refugees. President Trump has accused the South African government of [racial discrimination](#) against Afrikaners, which that government has [denied](#).

The cap is the [lowest limit](#) on refugee admissions since establishment of the United States' refugee program in 1980. For comparison, the most recent previous refugee admissions cap was 125,000 in FY 2025.

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USCIS Releases Additional Guidance on New \$100,000 H-1B Fee

On October 20, 2025, U.S. Citizenship and Immigration Services (USCIS) [announced](#) additional guidance related to the September 19, 2025, Presidential Proclamation, [Restriction on Entry of Certain Nonimmigrant Workers](#). As of September 21, 2025, new H-1B petitions must be accompanied by an additional \$100,000 payment as a condition of eligibility.

USCIS emphasized that for H-1B petitions subject to the Proclamation, "petitioners must submit a copy of the proof of the payment from pay.gov or evidence of an exception from the fee from the Secretary of Homeland Security at the time of filing the H-1B petition. Petitions subject to the \$100,000 payment that are filed without evidence of payment or the grant of an exception will be denied."

USCIS has [confirmed](#) that:

- Those who are outside of the United States but have valid H-1B visas are not subject to the \$100,000 H-1B fee.

- H-1B petitions requesting a change of status, amendment, or extension of stay are not subject to the \$100,000 fee, unless that request is denied (effectively approving the petition for consular notification).
- The Proclamation does not prevent any holder of a current H-1B visa, or any beneficiary following petition approval, from traveling in and out of the United States.
- The fee instructions state that for new H-1B petitions on behalf of individuals outside the United States, the fee must be paid before the petition is filed.

The October 20 guidance did not mention H-1B1 visas. As such, it is unclear whether the Proclamation applies to Chileans and Singaporeans applying for H-1B1 visas. On September 29, however, the [U.S. Embassy of Singapore stated](#) that the Proclamation "does not apply to the H-1B1 visa for Singaporean citizens. There is no change to the H-1B1 process at this time."

On October 20, USCIS updated the [H-1B Specialty Occupations](#) page to include a section, "Presidential Proclamation on Restriction on Entry of Certain Nonimmigrant Workers."

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USCIS Discusses Impact of Shutdown on Certain H and CW Petitions

U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it will process H-1B, H-2A, and H-2B-related Form I-129 petitions and CW-1-related Form I-129CW petitions during the federal government shutdown. "We recognize, however, that the shutdown may affect a petitioner's ability to get required documentation (such as a labor condition application or a temporary labor certification from the U.S. Department of Labor), which may delay their ability to file Form I-129 or Form I-129CW."

If an H-1B, H-2A, H-2B, or CW-1 petitioner meets all other applicable requirements and submits evidence establishing that the government shutdown was the primary reason they did not timely file an extension of stay or change of status request, USCIS will consider the government shutdown an "extraordinary circumstance beyond the petitioner's control" when it determines whether to excuse the failure to timely file.

USCIS said it will monitor the situation and publish additional guidance if needed.

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U.S. Chamber of Commerce Files Lawsuit, Calls New \$100K H-1B Fee 'Unlawful'

On October 16, 2025, the U.S. Chamber of Commerce (USCC) filed a [lawsuit](#) challenging the legality of the new \$100,000 H-1B fee. USCC [said](#) that it believes the new fee "is unlawful because it overrides provisions of the Immigration and Nationality Act that govern the H-1B program, including the requirement that fees be based on the costs incurred by the government in processing visas."

USCC said it has "heard from many Chamber members—from small to large and across industries—regarding the tremendous negative impact that will be caused" by the fee. The suit [argues](#) that "[f]or more than 70 years, what is now known as the H-1B visa program has enabled the United States to harness this magnetic draw. Tens of thousands of highly skilled people in specialized fields boost the American economy each year after obtaining H-1B status. These workers allow businesses of all sizes, in industries across the economy, to innovate and grow. The resulting innovations lead to more American jobs, higher wages, and new products and services that improve the quality of life for all Americans." Arguing that the new fee "exceeds the President's lawful authority," USCC noted that before the

presidential proclamation at issue, [Restriction on Entry of Certain Nonimmigrant Workers](#) (Sept. 2025), most H-1B petitions cost less than \$3,600.

On the same day the lawsuit was filed, USCC published [H-1B Visas: What You Need to Know](#). The brief report notes that "decades of research show that high-skill immigration raises output and local wages without reducing domestic employment. Persistent labor shortages in computer, math, and engineering occupations underscore the demand for specialized skills."

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Visa Bulletin for November Includes Diversity Visa 2026 Results

The Department of State's (DOS) [Visa Bulletin for November 2025](#) notes that the Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the selectees who are eligible to participate in the DV-2026 Diversity Visa (DV) program.

The bulletin notes that approximately 129,516 prospective applicants (i.e., selectees and their spouses and children) have been registered, can confirm their selection, and may be eligible to apply for an immigrant visa. "Since selection is random and blind to the number of family members who might immigrate with the selectee, and it is likely that some of the selectees will not complete their cases or will be found ineligible for a visa, this larger figure should ensure that all DV-2026 numbers can be used during fiscal year 2026 (FY26: October 1, 2025, until September 30, 2026)," the bulletin states.

The bulletin includes details on next steps for selectees and a statistical breakdown by country. People can find updates on DOS's [Electronic Diversity Visa Program webpage](#), including information on registering for DV-2027 when it becomes available.

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USCIS Implements New Immigration Parole Fee

On October 16, 2025, the Department of Homeland Security [announced](#) publication of a Federal Register [notice](#), effective the same day, to implement a new immigration parole fee required by the reconciliation bill (H.R. 1). The fee is \$1,000 for fiscal year 2025 and is subject to annual adjustments for inflation. Parolees must pay the fee when they are paroled into the United States unless they qualify for an exception.

The notice states that the fee applies each time a person "is granted parole under INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), including initial parole from outside the United States, Congressionally-authorized 'parole in place,' re-parole, or parole from DHS custody." The fee is not due "when an application is merely submitted or when a travel document is issued," but rather, DHS will collect the fee after it determines that the person "merits a grant of parole as a matter of discretion" and "either appears for inspection at a port of entry or is already physically present in the United States."

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District Court Rules Trump Administration Policy Targeting Foreign Faculty's and Students' Speech Violates First Amendment

On September 30, 2025, in *American Association of University Professors v. Rubio*, a U.S. district judge [ruled](#) against the Trump administration in a First Amendment case involving the targeting of pro-Palestinian foreign faculty and students for visa revocation and deportation. The judge said the question was whether noncitizens lawfully present in the United States have the same free speech rights as U.S. citizens, and the answer was that "unequivocally 'yes, they do.' "

The court found that Secretary of Homeland Security Kristi Noem and Secretary of State Marco Rubio, together with their subordinates, "deliberately and with purposeful aforethought" coordinated their actions to intentionally "chill the rights to freedom of speech" and peaceful assembly of the noncitizen members of the plaintiff associations. The court ruled, among other things, that "the Plaintiffs have shown that Secretaries Noem and Rubio are engaged in a mode of enforcement leading to detaining, deporting, and revoking noncitizens' visas solely on the basis of political speech, and with the intent of chilling such speech and that of others similarly situated. Such conduct is not only unconstitutional, but a thing virtually unknown to our constitutional tradition."

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E-Verify Resumes Operations; Employers Hiring When E-Verify Was Unavailable Must Create a Case by October 14

On October 9, 2025, E-Verify [announced](#) that it has resumed operations during the federal government shutdown. The announcement includes instructions for employers who hired foreign employees while E-Verify was temporarily not available, tips on how to handle tentative nonconfirmations (mismatches), and federal contractor deadlines and how to count days when E-Verify was unavailable. It also includes instructions for employees with traditional E-Verify cases or E-Verify+ cases.

The announcement notes that employers who participate in E-Verify must have created an E-Verify case by Tuesday, October 14, 2025, for each employee hired while E-Verify was not available. E-Verify went down on October 1, 2025, in conjunction with the shutdown, and was [back online without notice](#) late on October 7, 2025.

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DOS Announces New Policy for Interviewing Immigrant Visa Applicants

Effective November 1, 2025, immigrant visa applicants must be interviewed in the consular district designated for their place of residence, or in their country of nationality if requested, with limited exceptions, the Department of State (DOS) [announced](#).

Residents of countries where routine visa operations are suspended or paused should apply at their designated immigrant visa processing post, DOS said, unless the applicant is a national of another country with ongoing operations. The DOS notice provides a list of immigrant visa designated processing posts for such countries.

Highlights of DOS's [instructions](#) include:

- **Existing Appointments:** Existing immigrant visa appointments will generally not be rescheduled or cancelled.

- **Post-to-Post Transfers:** Beginning immediately, if an applicant would like to transfer an immigrant visa case to a new consular district after the National Visa Center (NVC) has scheduled the appointment, the applicant should contact NVC using its [Public Inquiry Form](#) and should not contact the consular section directly.
- **Residence Requirement:** If an applicant requests to interview in a location other than the applicant's assigned consular district or country of nationality, NVC may request additional information to confirm that the location is an applicant's place of residence, or to confirm whether an exception may be appropriate.
- **Exceptions:** Rare exceptions may be made for humanitarian or medical emergencies or foreign policy reasons.
- **Diversity Visas:** These changes will be applied to Diversity Visa applicants in the DV-2026 program year.

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University Warns H-1B Faculty and Staff: Don't Travel Now

The University of Southern California (USC) has urged faculty and staff in H-1B status to avoid international travel. "Out of an abundance of caution, all faculty and staff in H-1B status currently in the U.S. should put international travel plans on hold until they receive further guidance," the [statement](#) says.

Aisling Kelliher, associate professor of cinematic arts at USC, said she was concerned about widespread confusion and anxiety resulting from new H-1B policies under the Trump administration, including a \$100,000 fee for new H-1B applications. "If you're going to invest the time in uprooting yourself and moving to another country, perhaps it is going to be more attractive to [move] to ... other countries that're going to make it a little bit more attractive for people to consider that, long-term, they may be able to put down roots," she noted.

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DACA News: USCIS Issues Memo Calling for Termination for Attempts to Purchase a Firearm; Immigration Attorney Launches National Green Card Initiative

In several developments affecting Deferred Action for Childhood Arrivals (DACA) recipients, U.S. Citizenship and Immigration Services (USCIS) has issued guidance on terminating DACA status when a DACA recipient attempts to purchase a firearm, and an immigration attorney has launched a national green card initiative for DACA recipients.

USCIS Releases Guidance on DACA Termination for Attempted Firearm Purchase

U.S. Citizenship and Immigration Services (USCIS) is instructing USCIS officers "to initiate certain post-adjudicative actions to ensure that [Deferred Action for Childhood Arrivals (DACA)] is properly terminated when DACA recipients engage in certain unlawful acts." In a new memorandum, USCIS calls attempts to purchase a firearm by DACA recipients "unlawful" where they have, "without regard to intent, attempted to purchase a firearm and [do] not meet one of the exceptions provided in 18 U.S.C. 922(y)(2)." Those exceptions include a person who is:

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

The memo states that in most cases, a Notice of Intent to Terminate (NOIT) DACA should be issued when a DACA recipient attempts to purchase a firearm and that issuance of the NOIT must comply with the law and regulations requiring notice and an opportunity to respond before the DACA grant is terminated. If the DACA recipient has had an opportunity to respond and has failed to provide "sufficient and persuasive evidence to overcome the grounds for termination outlined in the NOIT, USCIS may issue a Notice of Termination." The only exception to the NOIT requirement is that "USCIS may terminate a grant of DACA without a NOIT and an opportunity to respond if the DACA recipient is convicted" of certain national security-related offenses or egregious public safety offenses.

National Green Card Initiative for DACA Recipients Launched

Hillary Walsh, an immigration attorney, has launched a [national green card initiative](#) targeting high-skilled DACA recipients and their employers. Specifically, the program educates employers about their options, and encourages eligible DACA recipients to explore whether they may qualify for employer sponsorship or national interest waivers (NIWs) if they are in certain fields (e.g., registered nurses, physicians, physical therapists, those in science or technology fields like robotics engineering, innovative entrepreneurs). In some cases, they may be able to self-petition for an NIW, or their employers may wish to file a permanent labor certification application.

"I graduated law school the same year DACA became a program, and for over a decade I have watched these professionals build careers while remaining locked out of permanent residency," Ms. Walsh [said](#). "It's time to highlight employment-based and self-petition paths that match the contributions they are already making."

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EOIR Announces New Director: Daren K. Margolin

On October 7, 2025, the Department of Justice's Executive Office for Immigration Review [announced](#) the appointment of a new director, Daren K. Margolin.

Mr. Margolin earned his Juris Doctor degree in 1990 from New York Law School, and a Master of Political Science/National Security Studies degree in 2010 from the Israeli National Defense College and Haifa University. His experience includes serving as an Assistant Chief Immigration Judge at multiple immigration courts in California; Assistant Chief Counsel, Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, Department of Homeland Security, in Adelanto, California; a military judge, prosecutor, appellate prosecutor, and defense counsel for the U.S. Marines; and staff judge advocate (general counsel) for various Marine commands.

Mr. Margolin is a member of the State Bars of California, Hawaii, New Jersey, and New York.

New Publications and Items of Interest

Policy brief: Threats to due process in immigration courts. The American Immigration Lawyers Association (AILA) has published [Policy Brief: Critical Threats Endanger Due Process in Immigration Courts](#). AILA noted that "[r]ecent policy changes made to the immigration courts prioritize speed and enforcement over fairness, efficiency, and accuracy. These decisions raise critical due process concerns and produce fewer safeguards to error. This brief overviews these policy changes and recommendations for improvement."

Policy brief on mass worksite enforcement. The American Immigration Lawyers Association has published a new policy brief, [Mass Worksite Enforcement Harms U.S. Economy and Communities](#).

Know your rights. A number of organizations, including the [American Civil Liberties Union](#) (ACLU) ([English](#) and [Spanish](#)), the [Immigrant Legal Resource Center](#), [Catholic Legal Immigration Network, Inc.](#), the [National Immigrant Justice Center](#), the [American Immigration Lawyers Association](#), and the [Asian Law Caucus](#), have published resources highlighting immigrants' and nonimmigrants' rights in the United States and at ports of entry, including "know your rights" information and what documents they may want to carry when traveling inside the United States. ACLU of Northern California also released [Know Your Rights: U.S. Airports and Ports of Entry](#).

E-Verify webinars: E-Verify has [added a webinar](#) with a focus on acceptable documents for Form I-9 verification, and has updated its [calendar of webinars](#).

SAVE webinars: Systematic Alien Verification for Entitlements (SAVE) has updated its [calendar of webinars](#).

Immigration agency X (formerly Twitter) accounts:

- EOIR: @DOJ_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

Alliance of Business Immigration Lawyers: ABIL is available on X (formerly Twitter): [@ABILImmigration](#)

ABIL Member/Firm News

Janice Flynn was quoted by the *Washington Post* in [Not So Proud To Be American—'Fed Up' Expats Renounce Their Citizenship](#). She said, "I want [noncitizen clients] to know they can't expect the same smooth entry they've been used to. It's always been a concern, but now when they hear how [other noncitizen travelers] are being treated, the question is, 'What if I have something on social media?' " Emphasizing how permanent renunciation is, Ms. Flynn said, "Sometimes I want to tell people, don't give up. It can change again."

Charles Foster, chairman of Foster LLP, has authored an op-ed published by the *Houston Chronicle*, [Trump's Immigration Policy Wages War on Houston's Economic Success](#).

Klasko Immigration Law Partners, LLP, has published several client alerts: [Limited to the Face Value of the EAD: Automatic Renewals Ended](#), [USCIS Clarifies the \\$100,000 H-1B Fee Proclamation](#), [Trump Pushes Birthright Citizenship Case to SCOTUS](#), and [Litigation Challenges \\$100K H-1B Fee Proclamation](#).

Charles Kuck was quoted by *Raw Story* in ['Freaky Friday': How 'Insane' Trump Plan to 'Bribe' Kids Mobilized Fight](#). The article quotes Mr. Kuck's [post on X](#): "There is a darkness and evil that is taking over

ICE, led by the dark lord [Stephen Miller, President Trump's deputy chief of staff]. "ICE is launching a nationwide operation ... reportedly named 'Freaky Friday' that will target unaccompanied children aged 14 and older of all nationalities."

Cyrus Mehta and **Kaitlyn Box** have co-authored a new blog post: [USCIS's October 20 Clarification Will Not Make the \\$100,000 Fee Disappear](#).

Mr. Mehta and **Manjeeta Chowdhary** have co-authored a new blog post: [AC 21 Trap for H-1B Workers Caught in the Green Card Backlogs and Who Have Changed Jobs](#).

Mr. Mehta was quoted extensively by *Law360* in [Kirk-Related Visa Revocations May Rub Against Court Rulings](#). He said that while some court cases could support challenges to visa revocations for individuals within the United States, those outside the country have more limited options, with few exceptions: "I don't think there's much recourse. With regards to visa revocations, you can't get into court because of the doctrine of consular nonreviewability," which deprives federal courts of jurisdiction to review visa decisions.

Mr. Mehta has authored a new blog post: [Board of Immigration Appeals Allows Immigration Judges to Disregard Party Stipulations](#).

Angelo Paparelli, of **Seyfarth Shaw LLP**, was quoted by *Law360* in [Kirk-Related Visa Revocations May Rub Against Court Rulings](#). He recommended that those granted admission on a visa, or applying for one abroad, be circumspect in their online postings and their activities. Regarding potential legal challenges, Mr. Paparelli said that the Charlie Kirk visa revocations present "fertile ground" for litigation, noting an obvious tension between the Department of State's actions, the Supreme Court ruling, and recent court decisions. "It is chilling, because the Supreme Court has allowed the government to restrict expressions that would ordinarily be seen as First Amendment expressions by noncitizens. And so it's just a question of, how far will this go?"

Stephen Yale-Loehr, of **Miller Mayer, LLP**, was quoted by the *New York Times* in [Nigerian Nobel Laureate Says the U.S. Revoked His Visa](#). He noted that although Nigerian author Wole Soyinka's criticism of President Trump could have made him a target for visa revocation, not showing up to an interview also could have provided the State Department with a procedural reason to revoke his visa.

Mr. Yale-Loehr was quoted by the *Arizona Republic* in [Will U.S. Start Processing New DACA Applications? How a Texas Lawsuit Complicates Question](#). He said, "It is possible that once the case is resolved, USCIS will begin to decide new [Deferred Action for Childhood Arrivals (DACA)] requests again." A Department of Justice proposal, however, could make an already complicated case "even more complicated," he noted. DACA recipients in Texas or who move there could lose their work authorization, Mr. Yale-Loehr pointed out. "This would harm the nearly 90,000 DACA recipients who live in Texas, and could prompt an exodus of those DACA workers from the state." If the judge approves Texas' proposal, Arizona, where 20,230 DACA recipients live, will not be directly affected, but "some DACA recipients in Texas may want to move to Arizona so that they can continue to legally work," he said.

Mr. Yale-Loehr was quoted by the *Times of India* in [H-1B Fears Cool, Companies Hiring From U.S. Campuses to Gain](#). Commenting on the Trump administration's decision to exempt those who are already in the United States, including foreign students, from a new \$100,000 H-1B application fee, Mr. Yale-Loehr said this means that only a few people will be affected by the fee.

Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS case processing times online: <https://egov.uscis.gov/processing-times/>

Department of State Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their more than 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting at conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <https://www.abil.com/>.

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