New York State Comptroller
THOMAS P. DiNAPOLI

Wayne County Chapter NYSARC, Inc. – Compliance With the Reimbursable Cost Manual

State Education Department

Report 2020-S-30 | **December 2020**

Spotlight on Education

Audit Highlights

Objective

To determine whether the costs reported by the Wayne County Chapter of NYSARC, Inc. (ARC Wayne) on its Consolidated Fiscal Report (CFR) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit covered expenses reported on ARC Wayne's 2016 and 2017 CFRs for the fiscal year ended June 30, 2017.

About the Program

ARC Wayne is a not-for-profit organization located in Wayne County. Among other programs, ARC Wayne provides preschool special education services to children with disabilities who are three and four years of age. ARC Wayne is reimbursed for these services through rates set by SED. The reimbursement rates are based on financial information, including costs, that ARC Wayne reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with the RCM requirements. For the fiscal year ended June 30, 2017, ARC Wayne reported approximately $3 million in reimbursable costs on its CFR for the Preschool Special Class – over 2.5 hours per day, Preschool Integrated Special Class – over 2.5 hours per day, and Preschool Integrated Special Class – 2.5 hours per day (collectively referred to as Programs) that it operated.

Key Findings

For the fiscal year ended June 30, 2017, we identified $20,988 in ineligible costs that ARC Wayne reported on its CFRs for the Programs. The ineligible costs included:

- $11,284 in costs not offset by an increase to revenue received for students without disabilities and $1,015 in staffing costs for services for students without disabilities in excess of this revenue.
- $8,385 in personal service costs consisting of $7,759 in bonus compensation and $626 in non-reimbursable staffing costs.
- $304 in other than personal service costs for non-allowable food.

Key Recommendations

To SED:

- Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on ARC Wayne's CFRs and to ARC Wayne's tuition reimbursement rates, as appropriate.
- Remind ARC Wayne officials of the pertinent SED guidelines that relate to the deficiencies we cited.

To ARC Wayne:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Office of the New York State Comptroller
Division of State Government Accountability

December 7, 2020

Dr. Betty A. Rosa
Interim Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Mr. David Calhoun
Chief Executive Officer
Wayne County Chapter NYSARC, Inc.
150 Van Buren Street
Newark, NY 10573

Dear Dr. Rosa and Mr. Calhoun:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by Wayne County Chapter NYSARC, Inc. to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

Glossary of Terms

Term	Description	Identifier
ARC Wayne	Wayne County Chapter NYSARC, Inc.	*Service Provider*
CFR	Consolidated Fiscal Report	*Key Term*
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	*Policy*
FTE	Full-time equivalent	*Key Term*
Non-disabled revenue	Revenue reported for students without disabilities for Preschool Integrated Special Class Programs	*Key Term*
NYCRR	New York Codes, Rules and Regulations	*Policy*
OTPS	Other than personal service	*Key Term*
Programs	Preschool Special Class and Preschool Integrated Special Classes	*Key Term*
RCM	Reimbursable Cost Manual	*Policy*
SED	State Education Department	*Auditee*

Background

The Wayne County Chapter of NYSARC, Inc. (ARC Wayne) is a not-for-profit organization located in Wayne County that provides a range of community-based programs and special education services. ARC Wayne is authorized by the State Education Department (SED) to provide, among other programs, preschool special education services to children with disabilities who are three and four years of age. During our audit period, ARC Wayne operated three rate-based special education programs: Preschool Special Class – over 2.5 hours per day, Preschool Integrated Special Class – over 2.5 hours per day, and Preschool Integrated Special Class – 2.5 hours per day (collectively referred to as Programs). The Programs serve about 103 children with special education needs.

The counties that use ARC Wayne's preschool special education services pay tuition to ARC Wayne using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5 percent of the tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by ARC Wayne on its annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements, and must meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2017, ARC Wayne reported approximately $3 million in reimbursable costs for the Programs on its CFRs.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the fiscal year ended June 30, 2017, we identified $20,988 in costs reported by ARC Wayne that did not comply with SED's requirements for reimbursement. The ineligible costs included $12,299 in expenses not offset by revenue for students without disabilities, $8,385 in personal service costs, and $304 in other than personal service (OTPS) costs. Additionally, we determined ARC Wayne did not provide employer agreements for its executive staff, exclusive of its Executive Director. A summary of the ineligible costs is presented in the Exhibit at the end of this report.

Offsetting Revenue

Per SED's 2016-17 tuition rate-setting methodology for Preschool Special Class Programs in an Integrated Setting, after applying the non-direct care cost parameter, reported expenditures are reduced by the greater of:

- Actual revenues received for students without disabilities; or
- An amount calculated by multiplying the reported full-time equivalent (FTE) enrollment of students without disabilities (not prorated for program hours per day) times a regional day care rate or prorated regional day care rate for children ages 3 to 5, as published in New York Codes, Rules and Regulations Title 18, Section 415.9, applicable to the time period for which the program operated.

We compared the 2016-17 revenue reported for students without disabilities for the Preschool Integrated Special Class Programs (non-disabled revenue) to the revenue generated under the regional day care rates (Office of Children and Family Services rates) as described in the tuition rate-setting methodology, and found that the calculated revenue for the 2.5-hour Integrated Program exceeded the reported revenue by $11,284. Therefore, we recommend that the offsetting revenue for the 2.5-hour Integrated Program be increased by $11,284. (Note: SED already made this adjustment to reported offsetting revenue.)

Further, according to Section 4410 of the New York State Education Law, special education funding shall not be used to cover costs for regular preschool educational services. For the Preschool Integrated Special Class – over 2.5 hours per day, we found the non-disabled revenue collected did not cover the total salary and fringe benefits associated with staffing for students without disabilities. The non-disabled salary and fringe costs not covered by the non-disabled revenue for the 2016-17 fiscal year totaled $1,015. Therefore, we recommend SED increase offsetting revenues for the Preschool Integrated Special Class – over 2.5 hours by this amount.

Personal Service Costs

According to the RCM, personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). All claimed costs must comply with the applicable provisions of the RCM. For the fiscal year ended June 30, 2017, ARC Wayne reported $2,491,428 in reimbursable personal service costs. We identified $8,385 in personal service and fringe benefit costs that did not comply with the applicable provisions of the RCM for reimbursement, as detailed below.

Enhancement Pay

According to the RCM, a merit award (or bonus compensation) is a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations.

During the fiscal year ended June 30, 2017, ARC Wayne reported one-time bonus payments and enhancement pay to staff members. According to officials, ARC Wayne paid out bonuses to regularly scheduled staff in recognition of their commitment and dedication to the agency. ARC Wayne officials noted that the Programs were not charged for this expense in keeping with the RCM; however, we found enhancement pay costs allocated to the Programs for the fiscal year ending June 30, 2017. ARC Wayne officials agreed that these payments were inappropriately allocated to the Programs. The ineligible expenses for one-time bonus payments and enhancement pay totaled $7,759 ($6,044 salary and $1,715 associated fringe benefits).

Development and Community Relations Liaison

We identified one salaried position that did not comply with the RCM's requirements for reimbursement. ARC Wayne reported salary expenses on the CFR for the position titled Development and Community Relations Liaison. The liaison's functions were described as developing and maintaining all community awareness and public relations materials and activities and planning and organizing special events and major fundraising activities. However, according to the RCM, the costs of organized fundraising (e.g., financial campaigns, endowment drives, or solicitation of gifts and bequests) to raise capital or to obtain contributions are not reimbursable. ARC Wayne provided support showing the total salary reported on the 2016 CFR and a portion of the salary reported on the 2017 CFR were attributed to non-fundraising activities. However, ARC Wayne was unable to provide sufficient support for all of the 2017 salary for this position. ARC Wayne officials stated the unsupported salary was due to a data input error at the time of the CFR preparation. The reported salary amount on the CFR resulted in $626 in ineligible compensation costs ($477 in salary and $149 in fringe benefits) charged to the Programs for this position.

Other Than Personal Service Costs

The RCM states that costs must be reasonable, necessary, directly related to the special education programs, and sufficiently documented. It also specifies certain expenses are not reimbursable, including food for board meetings and staff. Of the $31,620 in costs we reviewed, $2,735 were ineligible for reimbursement per RCM guidelines, of which $304 was charged to the Programs.

Other Matters

According to the RCM, entities operating approved programs shall develop employer–employee agreements with written salary, wage, or payment scales for services provided. ARC Wayne provided an employer agreement for its executive director; however, ARC Wayne does not have employer agreements for employees serving as the Assistant Executive Director or Comptroller/Controller. Further, officials stated ARC Wayne does not have employer agreements of this nature for other positions listed under agency administration.

Recommendations

To SED:

1. Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on ARC Wayne's CFRs and to ARC Wayne's tuition reimbursement rates, as appropriate.
2. Remind ARC Wayne's officials of the pertinent SED guidelines that relate to the deficiencies we cited.

To ARC Wayne:

3. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
4. Develop employer agreements for all employees in compliance with the RCM.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether the costs reported by ARC Wayne on its CFR were properly calculated, adequately documented, and allowable under SED guidelines, including the RCM and CFR Manual. The audit covered expenses reported on ARC Wayne's 2016 and 2017 CFRs for the fiscal year ended June 30, 2017.

We audited the costs that ARC Wayne reported on its 2016 and 2017 CFRs, focusing on costs associated with the fiscal year ended June 30, 2017. ARC Wayne submits its CFR on a calendar-year reporting basis (January 1 through December 31).

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM that applied to the calendar years we examined and the CFR Manual and related appendices. We evaluated ARC Wayne's internal controls as they related to costs it reported on the CFRs. We reviewed ARC Wayne's CFRs for the two calendar years ended December 31, 2017 with a focus on costs for the fiscal year ended June 30, 2017 as well as relevant financial records for the audit period. For some costs, a judgmental sample of costs claimed by ARC Wayne on the CFRs that were considered high risk (e.g., food, advertising, mileage, and gifts and employee salary costs) were assessed to determine whether they were properly calculated, adequately documented, and allowable. Based on our sample design, we cannot project our results to the population as a whole. For other expenses (e.g., bonus payments and salaries related to fundraising), we disallowed costs identified in those categories.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We provided a draft copy of this report to SED and ARC Wayne officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of the report. In their individual responses, both SED and ARC Wayne officials agreed with the audit recommendations and indicated the actions they will take to address them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Exhibit

Wayne County Chapter of NYSARC, Inc.
Schedule of Submitted and Disallowed Program Costs
for the Fiscal Year Ended June 30, 2017

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services	$2,491,428	$8,385	$2,483,043	B, C, E
Other Than Personal Services	533,539	304	533,235	A–D, F–J
Total Program Costs	**$3,024,967**	**$8,689**	**$3,016,278**	
Offsetting Revenue Adjustment	0	12,299	(12,299)	K, L
Net Expenses	**$3,024,967**	**$20,988**	**$3,003,979**	

Notes to Exhibit

The following Notes refer to specific sections of the RCM, CFR Manual, and 2016-17 Tuition Rate Setting Methodology Memo that we used as a basis for our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and ARC Wayne officials during the course of the audit.

A. RCM Section I.9 – Agency administration is defined as those expenses that are not directly related to a specific program, but are attributable to the overall operation of the agency. These include costs for public relations (non-fundraising).

B. RCM Section II – Costs are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and sufficiently documented.

C. RCM Section II.13.A.10 – A merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary that is not directly related to hours worked. A merit award may be reimbursed if it is based on merit as measured and supported by employee performance evaluations that are completed prior to the determination and accrual of the merit award and within one year of such determination and accrual. In order to demonstrate that a merit award is based on merit and measured and supported by employee performance evaluations, the provider's governing entity must adopt a written employee performance evaluation policy and form that contains sufficient detail as to the criteria and methods used to determine each employee's final evaluation rating. The written employee performance evaluation policy must also describe how the final evaluation rating will directly correlate to any amount of a merit award should funds be available for such an award.

D. RCM Section II.20.A – Costs incurred for entertainment of officers or employees; activities not related to the program; or any related items such as meals, lodging rentals, transportation, and gratuities are not reimbursable.

E. RCM Section II.23 – Costs of organized fundraising (e.g., financial campaigns, endowment drives, or solicitation of gifts and bequests) to raise capital or to obtain contributions are not reimbursable.

F. RCM Section II.24 – Gifts of any kind are not reimbursable.

G. RCM Section II.30.C – Costs for food, beverages, entertainment, and other related costs for meetings, including board meetings, are not reimbursable.

H. CFR Manual Section 8, p. 8.12 – Non-allowable costs are expenses that by regulation or State agency policy are not reimbursable. If any non-allowable costs have been included as an expense on the CFR, they must also be included on the line for adjustments/non-allowable costs on the respective CFR schedule (line 66 of Schedule CFR-1, line 8 of Schedule CFR-2, line 41 of Schedule CFR-3, line 13 of Schedule DMH-1, and line 12 of Schedule DMH-2).

I. CFR Manual Section 15, p. 15.1 – Upon calculating total agency administrative costs, agency administrative costs must be allocated to each applicable program. In order to ensure equity of distribution and to provide uniformity in allocation, the DMH and SED require the ratio value method of allocation to be used on the core CFR schedules (CFR-1 through CFR-6) and Schedule DMH-1. The ratio value method uses operating costs as the basis for allocating agency administration costs.

J. CFR Manual Appendix I, Section 42.0, p. 42.3 – Agency administration expenses must be allocated to programs operated by OASAS, OMH, OPWDD, and SED as well as shared programs and other programs (includes fundraising, special events, management services contracts provided to other entities, all programs funded by non-CFRS participating State agencies) based upon the ratio of agency administration costs to the service provider's total operating costs.

K. 2016-17 Tuition Rate-Setting Methodology Memo Section 1.H.1 for Preschool Special Class Programs in an Integrated Setting – After application of the non-direct care cost parameter, reported expenditures are reduced by the greater of actual revenues received for students without disabilities or an amount calculated by multiplying the reported FTE enrollment of students without disabilities (not prorated for program hours per day) times a regional day care rate or a proration of a regional day care rate for children ages 3 to 5, as published in 18 NYCRR 415.9, applicable to the time period for which the program operated.

L. Section 4410(10)(e) of the New York State Education Law – Public special education funding provided for the purposes of this section shall not be used to purchase regular preschool educational services, day care, or other child care services or to purchase any instructional service other than special services or programs as defined in subdivision two of section forty-four hundred one of this article or in this section, and the purchase of such regular preschool educational services and child care services shall not be approvable pursuant to this section as a charge upon the municipality or the board.

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

SENIOR DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
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November 25, 2020

Mr. Brian Reilly
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State St. 11th Floor
Albany, NY 12236

Dear Mr. Reilly:

The following is the New York State Education Department's (SED) response to the draft audit report, 2020-S-30, Wayne County Chapter, NYSARC, Inc. (ARC Wayne) - Compliance With the Reimbursable Cost Manual.

Recommendation 1:

"Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on ARC Wayne's CFRs and to ARC Wayne's tuition reimbursement rates, as appropriate."

We agree with this recommendation. SED will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates. NYSED will further consider the treatment of non-disabled offsetting revenues and expenses in accordance with applicable requirements.

Recommendation 2:

"Remind ARC Wayne's officials of the pertinent SED guidelines that relate to the deficiencies we cited."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the ARC Wayne officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulation and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert ARC Wayne of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact Brian Zawistowski, Assistant Director of the Rate Setting Unit, at (518) 474-3227.

Sincerely,

Sharon Cates-Williams

Sharon Cates-Williams

cc: Phyllis Morris
Christopher Suriano
Suzanne Bolling
Brian Zawistowski
James Kampf
Jerry Nestleroad

The Arc
Wayne
New York

November 24, 2020

Response to Report 2020-S-30

Wayne County Chapter NYSARC, Inc. – Compliance with the Reimbursable Cost Manual

The New York State Office of the State Comptroller (OSC) conducted an audit of Consolidated Fiscal Report (CFR) costs reported by Wayne County Chapter NYSARC, Inc. (Arc Wayne) to ensure all reported costs were properly reported and documented in accordance with Reimbursable Cost Manual (RCM) and CFR Manual guidelines. Upon completion of the audit, OSC issued Report 2020-S-30 detailing its key findings.

As part of the audit process, OSC provided Arc Wayne with a complete copy of the findings contained in Report 2020-S-30. OSC also allowed thirty days for Arc Wayne to submit a response to those findings. The agency respectfully submits the following.

Offsetting Revenue

We agree with the adjustment made by SED during the course of the 2016-2017 rate reconciliation process. Arc Wayne evaluates typical child fees prior to the start of each school year and strives to be competitive with rates charged by day care providers in the area. As part of that process we poll in-home and in-center providers in Wayne and Ontario counties to determine their rate structures. We offer a comparably low average rate in order to attract enough students to meet approved ratios in our integrated programs.

The agency understands that by offering a lower rate in order to meet our approved ratios we are subject to a revenue adjustment during reconciliation. As part of our due diligence process we calculate the adjustment prior to submitting the CFR and then confirm that it matches the adjustment made by SED during the reconciliation process. This has no impact on expenses for the program, nor any bearing on the validity of costs as reported on the CFR.

Personal Service Costs

The Arc Wayne Board of Directors may, on occasion, approve a one-time stipend for qualifying employees. For any employees working directly in programs subject to SED Reimbursable Cost Manual parameters, any one-time stipends are excluded from program costs. One-time stipends paid to agency administration and program administration employees, however, were allocated proportionately to SED tuition-based programs. The agency acknowledges this finding and we have corrected the process in order to exclude those payments.

The Development and Community Relations (DCR) Liaison position at Arc Wayne functions to develop and maintain community relations and to organize fundraising events. In keeping with the parameters of the RCM, the agency recognizes fundraising activities as non-allowable. It is agency practice that any time spent by the DCR Liaison on fundraising activities is directly allocated to a non-allowable expense department that is not reported on CFR-1. The agency strives to provide detailed support for all such allocations and we believe we have allocated and reported these costs correctly and in accordance with RCM guidance.

Incidental food costs for Board meetings and administrative staff meetings were charged to agency administration and subsequently allocated proportionately to programs. This resulted in minor non-reimbursable costs being included in overall program expenses. The agency has corrected the process by which such costs are allocated so that they are excluded as non-allowable where appropriate based on RCM guidance.

Other Matters

Upon hire at Arc Wayne and at the time of any change in job position, every employee at the agency signs a letter acknowledging and agreeing to the salary and all other terms of the job assignment. This document is on file and serves as the employment agreement for each position at the agency.

Arc Wayne endeavors to comply fully with CFR and RCM cost-reporting requirements and to provide support and justification for all reported costs. We appreciate that OSC has provided us with this opportunity to respond to their audit findings.

Respectfully submitted,

The Arc Wayne

The Arc
Wayne
New York

Contributors to Report

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Tina Kim - *Deputy Comptroller*
Ken Shulman - *Assistant Comptroller*

Audit Team

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