



## **SUBSTANTIVE CHANGE**

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### **5.6. SUBSTANTIVE CHANGE**

When an institution is accredited, that action applies to the conditions of the institution existing at the time of the Commission's decision. While the decision to modify an institution is an institutional prerogative and responsibility, the Commission is obligated to determine the effect of any substantive change on the quality, integrity, and effectiveness of the total institution.

Accreditation and candidacy are subject to modification or rescission in the event of changed circumstances that the Commission reasonably determines require such actions.

A principal of institutional accreditation is that everything done in the name of the institutions is covered by its accreditation. Conversely, anything done without appropriate concern for consistency with an institution's stated mission and concern for quality and integrity may threaten the accredited status of the entire institution.

Substantive changes are not automatically covered by the institution's accreditation or candidate status and precipitate a review of the accredited or candidate status of the institution. Therefore, institutions planning a substantive change have the responsibility to inform the Commission on Secondary Schools following the procedures in this policy.

For postsecondary institutions using their MSCSS accreditation to establish eligibility to participate in Title IV, HEA, programs, **prior approval** of the plan for substantive change **is required** before the change is included in the institution's previously granted candidate or accredited status.

The Commission reserves the right to rescind approval of a substantive change or other Commission action if subsequent developments might have affected the commission's decision.

#### **5.6.1. Definition of Substantive Change**

A substantive change is a change of such magnitude as to alter significantly the institution's objectives or scope of its offerings, its autonomy, sponsorship, or the locus of control over it. This includes an institution's plans to offer programs in other locations and/or to change the geographic area(s) served.

If an institution is uncertain whether the proposed change is substantive, the institution should contact the Commission's staff with preliminary information regarding the nature and purposes of the change. This should be done as early in the planning process as possible. Based on this preliminary review, the staff will advise the institutions and send confirmation by letter if appropriate.

#### **5.6.2. Examples of Substantive Changes:**

5.6.2.1. Significant Changes in Mission, Goals, or Objectives of the Institution. This includes any changes that might affect the mission, goals, or objectives including merger, acquisition, closure, expansion, or other events deemed to be significant by the

accreditor, whether or not specifically listed in this policy or in the language of the U.S. Department of Education.

5.6.2.2. Branch Campus. A branch campus is a location of an institution that is geographically apart and independent of the main campus of the institution. Branch campuses may be domestic or international. The location is independent if the location offers courses in educational programs leading to a certificate or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority.

The institution must notify the Commission if it plans to establish a branch campus and submit a business plan for the branch campus that describes:

- (i) The educational program to be offered at the branch campus
- (ii) The projected revenues and expenditures and cash flow at the branch campus; and
- (iii) The operation, management, and physical resources at the branch campus.

The Commission will include the branch within the scope of the institution's accreditation only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to satisfy the Commission's standards.

The Commission will undertake a site visit to the branch campus as soon as practicable but no later than six months after the establishment of that campus. The Commission considers a branch campus to be "established" when it is operational with students enrolled.

5.6.2.3. Additional Locations. An additional location is a location, other than a branch campus, that is geographically apart from the main campus and at which the institution offers at least 50% of an educational program. Additional locations may be domestic or international. This includes corporate sites and locations for limited, rather than ongoing, provision of programs.

The Commission must determine if the institution has the fiscal and administrative capacity to operate the additional location. In addition, the Commission will visit within six months, each additional location the institution establishes, if the institution:

- (i) has a total of three or fewer additional locations;
- (ii) has not demonstrated, to the Commission's satisfaction, that it has a proven record of educational oversight of additional locations; or
- (iii) has been placed on probation or show cause by the Commission or is subject to some limitation by the Commission on its accreditation or candidate status;
- (iv) the first additional location of the institution to be located abroad, regardless of the number of domestic additional locations, unless waived by the staff.

The purpose of visits to additional locations is to verify that the additional location has the personnel, facilities, and resources it claimed to have in its application to the Commission for approval of the additional location.

The Commission may conduct additional reviews as it deems appropriate, such as unannounced inspections. In addition, the Commission will conduct, at reasonable intervals, visits to additional locations of institutions that operate more than three additional locations.

All new additional locations and the closure of locations require Commission review and approval through the substantive change process. Although the Commission is obligated to conduct visits to the first three additional locations, the Commission may, at its discretion conduct visits to subsequent new locations.

The Commission shall then modify the institution accordingly. At its discretion, the Commission may conduct visits to these additional locations.

**5.6.2.4. Instructional Site.** An instructional site is a location, other than a branch campus or additional location, at which the institution offers one or more courses for credit. Instructional Sites should be noted on the Annual Profile. Commission approval is not required for an Instructional Site to be included within the scope of accreditation. However, if an Instructional Site changes over time and meets the definition of an Additional Location or Branch Campus, further reporting and a substantive change review are required. Sites established outside of the U.S. for the sole purpose of offering courses through the study abroad experience are not considered to be instructional sites. If 50% or more of a program is offered, the site will meet the definition of an additional location

**5.6.2.5. Rapid Growth.** The Commission may, at its discretion, conduct visits to additional locations, to ensure that accredited and candidate institutions that experience rapid growth in the number of additional locations maintain educational quality.

Institutions contemplating rapid growth (or uncertain whether planned changes fall under this category) should be in contact with the Commission's staff prior to submitting comprehensive information to the Commission.

**5.6.2.6. Changes to the Legal Status, Form of Control, or Ownership of the Institution.** This includes, for example, sale of a proprietary institution or beginning or ending public sponsorship and control.

The institution must notify the Commission as soon as it is aware of the potential change, such as negotiations for transfer of ownership.

The Commission will undertake a site visit to an institution that has undergone a merger, change in legal status, change of ownership, or other change that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership.

*Definitions:* These summaries of definitions drawn from the federal regulations may be helpful:

**Control.** Control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a corporation, partnership, or individual, whether through the ownership of voting securities, by contract, or otherwise.

**Ownership.** Ownership or ownership interest means a legal or beneficial interest in an entity, or a right to share in the profits derived from the operation of an entity. The term does not include the interests of a mutual fund that is regularly and publicly traded, of an institutional investor, or of a profit-sharing plan in which all employees of an entity may participate. A change in ownership of an institution that results in a change of control may include, but is not limited to merger of two or more eligible institutions, conversions of the institutions from a for-profit to a nonprofit institution, sale of the institution,

transfer of the controlling interest of stock of the institution or its parent corporation, transfer of the liabilities of an institution to its parent corporation, or transfer of assets that comprise a substantial portion of the educational business of the institution (except where the transfer consists exclusively in the granting of a security interest in those assets).

If the change in ownership is due to the retirement or death of the owner, and the ownership is transferred either to a family member or to a person with ownership interest who has been involved in the management of the institution for at least two years preceding the transfer, the institution should contact the Commission's staff to determine whether approval or review is necessary.

Accredited or candidate status is not automatically transferred or extended to an acquiring institution or organization; the fact of change in control may itself constitute grounds for modification or termination of status.

5.6.2.7. Merger of Institutions or Division into One or More Institutions. A reorganized member institution can retain its accreditation and membership in the Middle States Commission on Secondary Schools.

5.6.2.7.1. Definition of a Merged Institution Eligible for This Policy: A merged institution is one that is the result of two or more institutions combining into a single entity. At least one of the original institutions involved in the reorganization must be an accredited member in good standing with the Commission.

5.6.2.7.2. Definition of a Divided Institution Eligible for This Policy: A divided institution is one that separates into two or more separate institutions. The original institution involved in the reorganization must have been an accredited member in good standing.

5.6.2.7.3. Transference of Accredited Status to Merged and Divided Institutions: In order to transfer accredited status to the newly reorganized entity(ies), the institution must demonstrate the following:

- the fundamental philosophy, mission, and purposes are unchanged
- the governance and ownership are unchanged
- the organizational design and staff is substantially unchanged or is comparable
- the educational program, services, and activities are substantially unchanged or are comparable
- institutions remain fiscally sound

In addition, the newly reorganized institution shall provide a report on facilities, health and safety, and learning media services and technology Standards for Accreditation. An onsite visitor shall validate that Commission standards are met in the newly reorganized institution. Costs of any visit shall be borne by the institution.

5.6.2.7.4. Establishing the Accreditation Timeline for the Newly Reorganized Institution: Future accreditation activities shall typically be based on the accreditation timeline of the institution originally accredited by the Commission.

5.6.2.7.5. Extent of Reorganization: A member institution that is so reorganized that it is no longer eligible under the set of Standards for Accreditation by which it entered

the Commission on Secondary Schools must apply for new membership as a candidate member.

5.6.2.8. Adding Grade Levels or changes to Grade Level Configurations. A member institution that adds grades can extend its accreditation to the additional grades.

5.6.2.8.1. Definition of a Institutions Adding Grades that are Eligible for This Policy: Accredited institutions that have added grades are considered to be in an Ascending/Descending Grades protocol. Secondary institutions may add grades up through grade 12 (or in some cases, grade 13) and down to grade 5. Adding grades below grade 5 will require the transfer of the institution's membership to the Committee on Institution-Wide Accreditation.

5.6.2.8.2. Extension of Accreditation to Additional Grades: Accreditation can be extended to each grade if the following criteria are met:

- the additional grades must be in operation currently and observable by the onsite visitor
- the fundamental philosophy, mission, and purposes of the additional grades are the same as the accredited institution
- the governance and ownership of the additional grades are the same as the accredited institution
- the organizational design and staffing patterns of the additional grades are the same as the accredited institution or are comparable
- the educational program, services, and activities of the additional grades are of the same quality as the accredited institution
- the facilities, health and safety considerations, and learning media services and technology are the same as the accredited institution or are comparable

The institution shall submit a written report providing evidence that the above criteria are met. In addition, an onsite visitor shall validate that Commission Standards for Accreditation are met in the additional grades. Costs of any visit shall be borne by the institution.

5.6.2.8.3. Accreditation Timeline for Ascending/Descending Grades Institutions: The additional grades shall be included as an integral part of the institution in all future accreditation maintenance and reevaluation activities and the institution shall remain on its original timeline of accreditation activities. If, however, the additional grade results in the addition of grade 12 and allows the institution to issue a diploma, the institution may have its ascending grades accredited but shall be required to initiate a comprehensive self-study, planning, and evaluation process within one year after grade 12 has been accredited.

5.6.2.9. Additions, Deletions, or Changes to the Education Program. Major program changes that represent a significant change in terms of either content or method of delivery, from those that were offered when CSS most recently evaluated the institution are a substantive change.

- For postsecondary institutions, this includes—
  - The addition of courses or programs at the credential level to those included in the institution's current accreditation.
  - Discontinuation of programs and evidence that no students shall be deprived of promised instruction

- Any significant increase in the requirements needed for successful completion of a program

5.6.2.10. Change to the Institution's Financial Stability. Changes to the institution's financial stability that are considered to be a substantive change include but are not limited to the following:

- Expenditures exceed revenues to a significant degree for three or more years.
- Finances are not stable, and projections indicate continuing instability.
- Based on the history of the school's revenues and expenditures the school has demonstrated fiscal instability over the last three years.
- The institution has major contingent liabilities or on-going litigations that potentially could affect the school's ability to continue operation.

5.6.2.11. Takeover of Control by the State or Other governmental Authority. In the event that an institution is taken over by the state, it is conceivable that the conditions that led to the takeover may also have negatively impacted the institution and its ability to meet the Standards for Accreditation. Therefore, a determination needs to be made of the institution's continued accreditation status.

Any secondary MSCSS accredited or candidate institution taken over by a state or other governmental agency shall, within one year of the takeover, have its programs, services and facilities reviewed.

Any postsecondary MSCSS accredited or candidate institution taken over by a state or other governmental agency shall, within 90 days of the takeover, have its programs, services and facilities reviewed.

A committee, selected by the Executive Director, will make a Special Visit to the institution to assess the extent to which the Commission's Standards for Accreditation are being met. Costs for the Special Visit will be borne by the institution.

A written report of the Special Visit will be presented to the Commission, and a ruling shall be made based on the Special Visit report. Continued accreditation and term of accreditation will be determined on a case-by-case basis.

5.6.2.12. Site Closure. An institution planning to close or merge an additional location or branch campus should inform the Commission no later than six months prior to the planned closure/merger date or as soon as such plans are approved. Additional locations are those sites at which a student can complete at least 50% of a program. A branch campus is geographically apart and offers courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority.

For sites (other than those whose cohort has completed the course or program), institutions should submit plans describing how any students remaining in the program will be accommodated. Sites established for a specific cohort (such as a corporate site) do not require notification upon closure.

5.6.2.13. Institutional Closure. An institution planning to close or merge should inform the Commission no later than six months prior to the planned closure/merger date.

Institutions planning an institutional closure should submit to the Commission for approval any plans to provide students with reasonable opportunities to complete their education, including any teach-out agreements that the institution has entered into or intends to enter into with another institution. Approvals from any licensing, regulatory or other legal entities as may be necessary also should be provided.

Under Federal law, the Commission can approve teach-out agreements only if the agreement is between institutions that are accredited or have candidate status by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that:

- the teach-out institution has the necessary experience, resources, and support services to provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the closed institution; and
- the teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances.

Institutions requesting approval of a teach-out agreement should provide sufficient documentation to demonstrate that they meet the policy “Closing or Merging a Postsecondary Institution.”

5.6.2.14. Clock/Credit Hours. A change from clock hours to credit hours; or a substantial change in the number of clock or credit hours required for the successful completion of a program, or the length of a program is a substantial change.

5.6.2.15. Distance Education: New Courses and Programs, Change in Content of Method of Delivery. Although an institution may have offered one or more distance learning courses in the past, the Commission requires that the institution receive approval through the substantive change procedures before offering 50% or more of a credential or certificate program through distance learning. The 50% standard includes only courses offered in their entirety via distance learning, not courses utilizing mixed delivery methods. At its discretion, the Commission may determine that only specified programs(s) delivered through alternative methods are included within the scope of accreditation.

The Commission requires that the first two programs for which 50% or more is offered through distance learning be submitted for Commission review and prior approval. In special circumstances further programs may require formal Commission review and action.

5.6.2.16. New Program or Credential. The addition of the first two courses or programs offered of a new credential or certificate program that was not included in the institution’s current accreditation or candidacy must be approved by the Commission prior to implementation.

Institutions considering establishing a new credential/certificate program should be in contact with the Commission’s staff as soon as it is aware of the potential change and prior to submitting comprehensive information to the Commission.

Because branch campuses and additional locations operate with some independence from

the main campus (including the resources available on each campus), the Commission also may require a branch campus or additional location to request a substantive change for the addition of a credential/certificate program at that site, even if the main campus already offers that program.

5.6.2.17. Contractual Agreements. Certain contractual agreements with an institution or organization not accredited by a Federally recognized agency to provide any portion of a postsecondary educational program that leads to an academic or professional degree, certificate, or other recognized educational credential on behalf of the accredited institution are subject to Commission review. This includes degree completion programs developed by third parties. In addition, certain contractual relationships with entities accredited by a Federally recognized agency to provide a credit-bearing program are substantive changes. (See also the Commission policy on Contractual Relationships with Non-MSA Accredited Organizations.) The types of factors that will determine whether a particular contract is a substantive change include: the experience of the accredited institution and of the contracting entity in offering similar contracted services; the percentage of total programs affected; and the location and method of delivery of the program. Other contractual agreements may be considered substantive changes under other circumstances.

Institutions requesting approval of a contractual agreement should submit sufficient documentation to demonstrate that they meet the policy “Contracts by Accredited and Candidate Institutions for Education-Related Services.” The Commission may, at its discretion, request information to assess the capacity of the non-regionally accredited organization to fulfill its obligations.

### 5.6.3. Notification to the Commission on Secondary Schools

5.6.3.1. Notification Requirement for Secondary Institutions: Substantive changes in secondary institutions that are initiated subsequent to the most recent awarding of candidate or accredited status are **not** automatically included in the institution’s accredited or candidate status. Therefore, institutions must submit a report to the Commission, in writing, within six months of the occurrence of a substantive change that describes the change and the impact of the change on the quality of education offered by the institution. The institution’s Annual Profile to the Commission is not an appropriate vehicle for notifying the Commission of a substantive institutional change.

5.6.3.2. Notification Requirement for Postsecondary Institutions: A postsecondary institution planning a substantive change shall notify the Commission within 30 days of its decision to make the change but, in all cases, at least 90 days before the change occurs. The institution’s Annual Report to the Commission is not an appropriate vehicle for notifying the Commission of a substantive institutional change.

### 5.6.4. Content of Substantive Change Requests—All Institutions. Substantive change requests should provide the necessary information and analysis in as concise a presentation as possible. While the length will vary depending on the complexity of the substantive change, most requests will not be more than 25 pages. Requests should be loosely bound and paginated. Any supplemental documentation that accompanies the request must be specifically referenced within the request itself, and the relevance of any such documentation must be made apparent. Submissions can be made via an electronic mail attachment addressed to the Executive Director or by sending five full copies to the Commission’s office.

5.6.4.1. If the institution knows the proposed change is a substantive one or if the proposed institutional change is determined to be substantive based on the staff's review, five full copies of the following information should be provided with the substantive change request. Additional elements listed below should be included if relevant to the type of substantive change.

5.6.4.2. The following information is required unless waived by the staff in a specific situation:

- A one-page executive summary of the substantive change proposal;
- Statement of the nature and purposes of the activities, including relevance to the current institutional mission and evidence of need for the activities;
- Tentative or final plans in other areas such as expansion, merger, and/or change of size, locations, enrollment, and number or qualifications of the faculty;
- Financial impact of the proposed change;
- Analysis of the impact of the proposed change(s) on the rest of the institution or system; and
- Legal authorization to conduct the program(s) or activity, if required.

5.6.5.. Content of Substantive Change Requests—Postsecondary Institutions. In addition to the requirements in 5.6.4, above, postsecondary institutions will submit such other information and documentation as necessary to evidence continuing compliance with all accreditation standards. These may include submission of a complete long-term strategic plan, including plans for implementation of expansion, merger, and/or change of size, locations, enrollment, number or qualifications of faculty, and other relevant areas.

5.6.5.1. The institution should include the following as relevant to its particular proposal:

- basic planning documents including:
  - the budget and other information showing adequate financing for the projected activities; and
  - provisions for needed resources (faculty, administrators, library, facilities, etc.).
- intended constituency;
- governance and administrative organization;
- plans for the assessment of student learning outcomes;
- records of institutional procedures followed in approving the activities;
- copies of contractual arrangements; or
- publications announcing and/or describing the planned activities, if available.
- If the proposed change is to establish a branch campus, the request for inclusion within the scope of accreditation should include a description of the educational program(s) to be offered at the branch; the projected revenues and expenditures and cash flow at the branch; and the operation, management, and physical resources at the branch campus.
- If the proposed substantive change concerns a new credential or certificate program, additional details should be included about the constituency that will be served, provision of necessary resources, expected budget, plans for assessing student learning outcomes, and any other relevant information.
- If the Commission or Commission's staff determine that the proposed change indicates rapid growth, the institution's request for inclusion of the substantive change within the scope of accreditation should include:
  - enrollment and financial projections for a three-year period;

- identification of educational programs offered and planned at each site and the mode(s) of instructional delivery;
- quality management controls (for the purpose of administrative and academic oversight);
- staffing plan for faculty, administration, and student services;
- plans (with timetable) for implementing the changes and for evaluating the progress of implementation; and
- outlined plans to guide the coordination with existing activities.
- If the proposed change concerns change in legal status, form of control, or ownership of the institution, all relevant documents should be disclosed, such as acquisition resolution and agreements, oral or written.
- If the proposed substantive change involves matters requiring the approval of another agency, proof of that approval should be provided. For example: state agency approval (as required) for new degrees or programs should be provided; legal authorization should be included for programs offered in other countries or jurisdictions; etc.
- If an institution has prepared materials for approval by another agency, the institution may use these materials or excerpts from these materials, annotating and supplementing them as needed to meet the above information requirements.

5.6.5.2. Requests for approval of substantive change that fail to include adequate analysis (rather than merely provide documentation) may be rejected.

#### 5.6.6.. Review of the Substantive Changes

5.6.6.1. Substantive Change Review Processes for Secondary Institutions: Substantive change applications shall be submitted to the Executive Director who shall determine next steps and shall decide whether an institution's change falls within the requirements of this policy . The decision may be based on size, complexity, maturity, and experience of the institution in effecting significant change. The Executive Director may recommend a Special Report and/or Special Visit depending on the magnitude of the change, the relationship of the change to Standards for Accreditation, and the institution's timeline for evaluation.

5.6.6.2. Substantive Change Review Processes for Postsecondary Institutions: Postsecondary institutions that plan one of the following substantive changes shall be required to receive an onsite visit, within six months of the change occurring:

- Change in legal status, ownership, sponsorship, and/or control;
- Opening of a branch campus;
- Merger of two or more institutions, or divisions into two or more institutions.

The purpose of the onsite visit is to determine whether the institution remains in compliance with Commission policies and Standards for accreditation. The institution's report and the onsite visitor report shall be presented to the Commission for review and action at its next regularly scheduled meeting.

5.6.7. Commission Action. If the Commission has determined that there is insufficient information to substantiate the institution's compliance with one or more accreditation standards should the substantive change request be granted, the Commission may postpone a decision and request a supplemental information report.

If, upon initial review by staff, it is clear that the substantive change request does not have sufficient information or detail for the Commission to consider the request, the staff also may request that the institution re-submits the substantive change request with additional information as specified by the staff.

If the Commission is not satisfied that the substantive change should be included within the scope of an institution's accreditation, the Commission may deny the institution's request to include the change within its accreditation. The institution may re-submit the substantive change request after the Commission's concerns are addressed.

The timing of final Commission approval or denial of a substantive change application depends on the specific situation.

The Commission reserves the right to decline to entertain a substantive change request by any institution that is not in compliance with eligibility requirements and accreditation standards, policies, guidelines, and practices including those institutions subject to Probation or Show Cause.

The range of possible Commission actions include Removal of Accreditation or Candidacy, refusal to consider or grant the substantive change, further review including on-site evaluation or complete self-study evaluation,.

The Commission may amend its public disclosure statement to inform the public of a possible substantive change.

- 5.6.8. Site Visits/On-Site Reviews. In order to meet its obligations as an accrediting agency, the Commission may direct a site visit or require other action of an institution planning or undergoing change, as provided above, prior and/or subsequent to official action on the proposed change. The Commission and its staff will determine the individual(s) best suited to carry out the site visit.

The Commission reserves the right to conduct special monitoring activities prior and/or subsequent to the submission of and prior to approval of a substantive change proposal should there be institutional issues (e.g., reduction of programs, closure of instructional sites, financial exigencies, etc.) or other circumstances (e.g., adverse actions by other quality assurance agencies, investigations by regulatory agencies, legal issues that could affect the operations of the institutions, etc.), which might also affect the institution's ability to implement the proposed substantive change, to operate, or to fulfill its educational purposes.

- 5.6.9. Follow-Up Reporting. Through specific follow-up activities directed by the Commission, or as part of the accreditation maintenance requirements or self-study, the institution may be asked to provide updated information to the Commission at critical stages in the implementation of the substantive change.

After review of the follow-up information (whether presented separately or as part of a self-study or accreditation maintenance) the Commission may take any action provided in "Accreditation Actions" and require further review including, where appropriate, on-site evaluation of the activities, complete self-study re-evaluation of the entire institution, revocation of approval of the substantive change, or such other measures as the Commission may determine.

5.6.8. Failure to Report Substantive Change.

Failure to notify the Commission of substantive changes as required by this policy statement may be grounds for the Commission to issue a show cause action as to why the institution's accreditation should not be removed.

5.6.6. Change to Accreditation Timeline.

When substantive changes occur, the Commission may determine that a change needs to be made to the institution's accreditation timeline. Specific instances in which the Commission generally requires reevaluation on an earlier timeline include:

- Newly merged or divided institutions;
- Institutions in ascending/descending grades protocols; and
- Institutions that have undergone highly unusual or significant changes since the last evaluation and accreditation.

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