Special Immigrant Juvenile Status
To address officers' frequently asked questions:

- I-485
- Adjudication of Form I-360 for SIJ status and SIJ-based Form
- The legal basis for the SIJ program
- Special Immigrant Juvenile (SIJ) eligibility requirements

To understand and review:

Objective
seeking relief from abuse, abandonment or neglect.

- Exceptionally vulnerable nature of the population: Children

- Liability: Bound by a settlement agreement until 2016.

- Denials 55% of the time (as of July 2013).

- High overturn rate: The AAO reverses the SLJ Form I-360

In FY13, UACs arriving in the United States is expected to exceed 23,000. UACs have nearly doubled over the past year. The number of children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year.

- Increase in SLJ petitions: Number of SLJ petitions filed doubled from 2010 – 2012. (from 1,645 to 3,000)

- Growth in eligible population: Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year. Many unaccompanied alien children (UAC) are eligible for SLJ, and the number of arriving children have more than doubled over the past year.

Why is This Important to Adjudicating Officers?
Overview

Module 1: Overview and Eligibility

Module 2: Legislation, Policy, and Agreements

Module 3: Juvenile Court Order

Module 4: Age-out Protections

Module 5: Children in Federal Custody

Module 6: Adjudication of Form I-360 & SIJ-based Form I-485

Module 7: Review

Module 8: Administrative Information
Eligibility
Module 1: Overview and
Adjustment of status (AOS) and work authorization

- A status that allows eligible children to immediately apply for

- An immigrant classification

- Neglected children

- A humanitarian protection for abused, abandoned, and

(SIJ) Status?

What is Special Immigrant Juvenile
Note: These are examples not an all-inclusive list.

- Unaccompanied Alien Children Program
- Human Services’ Office of Refugee Resettlement
- In federal custody with the U.S. Department of Health and Human Services
- Residing with a guardian or adoptive parent
- In the state foster care system
- Abused while in the United States
- Abused prior to the child’s arrival in the United States

Who are Special Immigrant Juveniles?

Special Immigrant Juveniles may be:
Has a juvenile court order that meets USCIS requirements
- Under 21 years of age on the date of filing Form I-360
- Unmarried (on date of filing and adjudication of Form I-360)
- Is physically present in the US (on date of filing and
adjudication of Form I-360)

Who is Eligible for SIJ Status?
Has a juvenile court order that meets USCIS requirements (on date of filing and adjudication of Form I-485).  

Applicable grounds of inadmissibility 

Is admissible to the United States or eligible for a waiver of any 

under INA 245(c).  

Not among those specifically ineligible to apply for adjustment 

485. 

- and unmarried (at the time of filing and adjudication of the I- 

- is physically present (at the time of filing) in the United States 

- have an approved Form I-360 SI petition 

Based AOS? 

Who is Eligible to Apply for SI-
and Agreements

Module 2: Legislation, Policy,
Note: The regulation is outdated and USCIS is working on an updated rule.

- Miscellaneous and Technical INA Amendments of 1991
- INA § 101(a)(27)(J)—definition and INA § 245(h)—adjustment of status

Legislative Basis
Policy Guideance


Adjudicators Field Manual (AFM): Chapter 22.3 will be

Consolidated Handbook of Adjudication Procedures (CHAP): 2009

2008: Special Immigrant Juvenile Status Provisions (March 24,

Memo: Trafficking Victims Protection Reauthorization Act of

Perez-Olano Settlement Agreement (April 4, 2011)

Memo: Implementation of the Special Immigrant Juvenile
Subsequently terminated based on age.

- was the subject of a valid dependency order that was
  - was under 21 years of age, or
  - age or dependency status at the time of filing, the child:

USCIS may not deny or revoke an application for S1J

S1J status or S1J-based Adjustment of Status

S1J status or S1J-based Adjustment of Status

Class members: all applicants including, but not limited to, S1J applicants who, on or after May 13, 2005, apply or applied for


(P0SA)
Peréz-Olano Settlement Agreement
The child's custody status or placement. According to the court order and the court order did not alter the adjudication.

- The child did not receive a grant of specific consent before filing the SIJ petition and/or AOS adjudication, but before filing the SIJ petition and/or AOS adjudication, but before the child's dependency order terminated based on age after petition but before adjudication of the I-360 or I-485 (age-out).

- The child turned 21 years of age after filing the SIJ I-360 petition or application was denied solely because: Class members can file a Motion to Reopen (Form I-290B), if

**POS A Motions to Reopen**
individual or entity appointed by the court
the custody of an agency or department of a State, or an
Juvenile court

CHILDREN: Child must be dependent upon the

prior requirement. Child was deemed eligible for long

abandonment, or similar basis under state law
both of the child’s parents due to abuse, neglect,

CHANGED --expanded to: Child cannot be reunited with one or

term foster care by a Juvenile court.

prior requirement: Child was deemed eligible for long

2008 changes.

changes. See USCIS memo issued March 24, 2009 on TPR.

The regulation is outdated and parts are superseded by statutory

Regulations Governing SI Eligibility
because the minor ages-out, this requirement does not apply

CHANGE: If the juvenile court's jurisdiction ends solely

Juvenile court:

PRIOR REQUIREMENT: Continues to be dependent on the

(continued)

Regulations Governing SII Eligibility
Module 3: Juvenile Court Order
Order

Which courts can issue the

order.

Examples include:

- Juvenile
- Juvenile or family
- Dependency
- Orphan's
- Guardianship
- Probate
- Delinquency

Judicial determinations about the custody and care of children. United States having jurisdiction under state law to make "Juvenile court is defined by regulation as a court in the
residence

child's or their parent's country of nationality or last habitual

It would not be in the child's best interest to be returned to the

appointed by the court

agency or department of a State, or an individual or entity

The child is dependent on the court, or under the custody of an

under State law

viable due to abuse, neglect, abandonment, or a similar basis

Reunification with one or both of the child's parents is not

The juvenile court order must make the required three findings:

Juvenile Court Order Requirements
Eligibility for SJL status. 

Minor with the non-abusive father, without affecting the minor's 

because of abuse by the mother, a state court may place the 

For example, if a minor is declared dependent upon the court 

abusive/neglectful parent. 

An individual appointed by the court can be the NON-

Orders and One Parent Cases
living situation (other than reunification with the abusive parent(s)).

- The juvenile court case ended because the beneficiary was prevented by age of the beneficiary, or
- Form I-485, unless: through the time of adjudication of both the Form I-360 and

**Time of Adjudication:** The court order must be in effect

- through the time of adjudication of both the Form I-360 and Form I-485, unless:

**Time of Filing:** The court order must be in effect at the time of filing both the Form I-360 and Form I-485, unless:

**Orders and Effective Period**
The petition.

Time between the two orders will not be grounds for denial of
the juvenile can get a court order in State B, the lapse in
For example, a juvenile relocates from State A to State B. If
two orders due to a move.

through the time of adjudication, if there is a lapse between
Lapses in Orders: Dependency will be considered in effect

Juvenile’s move to another court’s jurisdiction.
A juvenile court order does not automatically end because of a
effect.

need a new state court order if the original order is no longer in
If a juvenile relocates to a different jurisdiction, he or she may

Orders and Jurisdictional Changes
neglect.
The court order based their findings on abuse, abandonment or
Example: Reunification is ordered with the parent on which
situation (other than reunification with the abusive parent(s)).
because the child was placed in a permanent living
aging-out, or
This does not apply if the order ended because of
ineligible for S.I.
If the order ends prior to adjudication, the juvenile will be
Termination of Order
Module 4: Age-out Protections
1238

age 21 at the time of filing.

USCIS will NOT revoke the Form I-360 after the 21st birthday based solely on age if the self-petitioner was under 21 at the time of filing the I-360.

USCIS will NOT deny SIJ after the 21st birthday based solely on age if the self-petitioner was under 21 at the time of filing.

NOW:

Form I-485 was not adjudicated before the 21st birthday.

Juvenile would age-out of eligibility if the Form I-360 or the previously (before the TPRA 2008):

NO SIJ AGE-OUT
upon the juvenile’s age. Before adjudication of the Form I-360 or Form I-485 based effect at the time of filing the Form I-360, but was ended
USCIS CANNOT deny SIJ if the juvenile court order was in

Now:

adjudication. vacated, terminated or ended for any reason before order was in effect at the time of filing Form I-360, but was
juvenile would age-out of SIJ eligibility if the juvenile court

Previously (before the TPRA 2008):

No Juvenile Court Age-Out
Juvenile turns 18.

Answer: Yes. If otherwise eligible, the juvenile remains eligible after the I-360 is adjudicated at 18. Does the juvenile remain eligible for SUL status, even if the Form reaches 18.

Question: A juvenile files a Form I-360 while under 18 (order is in effect) in a state where the age of emancipation is 18. The state court order automatically terminates when the juvenile turns 18.
Answer: Yes. The juvenile remains eligible for SJI status.

Does the juvenile remain eligible for SJI status?

Because of age.

Adjudication. The juvenile cannot get a new order in state "B" under 21. At age 19, the juvenile moves to state "B" before emancipation is 18. A juvenile obtains a court order that meets emancipation is 18. A "B" age of emancipation is 21. State "A" age of emancipation is 18.

Exercise 2
Custody

Module 5: Juveniles in Federal
• have no parent or legal guardian available in US
• have no legal status, and
• in the US,
• under the age of 18,

(UAC): Definition of unaccompanied minor (unaccompanied alien child)

into Federal custody

HHS is charged with the care of unaccompanied minors taken

Juveniles in Federal Custody
country of origin, or obtains legal status.

the Juvenile reaches the age of 18, is returned to his or her

retains custody until ORR releases the Juvenile to a sponsor.

The ORR/VAC Program is a short term care program that

facilities, including shelters, foster care, and secure care.

The ORR/VAC Program runs a network of ORR-funded

these Juveniles.

The ORR/VAC Program arranges for the care and custody of

within 72 hours.

ICE or CBP must transfer the Juvenile to the care of HHS

Juveniles in Federal Custody (cont'd)
necessary.

consent should be filed with Form I-360, if applicable. (RFE if HHS has instructions available on their website. Proof of HHS placement). The court altered or determined custody status or court order was issued, AND

The child was in ORR/VA program custody when the Specific consent from HHS is needed ONLY if:

Specific Consent from HHS
agency; ORR does not maintain custody.

- Custody must be established with the state, county, or private

- The state, a youth could be in the program up to age 23.

- Is a long term care program for eligible youth. Depending on

- Foster home, therapeutic care, independent living, etc.

- Children receive housing benefits based upon individual need

- Cuban/Haitian, and U-visa and S/J status recipients.

- Eligible youth include asylees, victims of human trafficking,

- URM became available to S/J children under the TPRA 2008.

**Minors (URM) Program**

The Unaccompanied Refugee
The URM Program may be critical because abused or abandoned children could otherwise end up homeless and may not be eligible for state benefits.

To ensure eligibility for URM, the Form I-360 must be approved.

To expedite the process, it may be appropriate to expedite a case when ash child is at risk of aging-out. A judge or petitioners or from HHS, from an attorney or petitioner, or from HHS.

Note: A child may need to be moved from one state to another for placement in a URM program.

HG recognizes it may be expedite to expedite a case when custody in the receiving jurisdiction.

Before the Juvenile turns 18, and with sufficient time to establish before the Juvenile turns 18, and with sufficient time to establish

The URM Program may be critical because abused or abandoned children could otherwise end up homeless and may not be eligible for state benefits.

The URM Program may be critical because abused or abandoned children could otherwise end up homeless and may not be eligible for state benefits.
Module 6: Adjudication of the SIJ Form I-360 and SIJ-based Form I-485
petitioner is not in removal proceedings or subject to a final order of removal.

- Can be filed alone or concurrently with Form I-485 (if the self-

- No fee

- Specific consent from HHS (if necessary)
  - Custody, non-viability of reunification, and best interest

- Juvenile court order with proper findings (dependency or
document etc.)

- Proof of age (birth certificate, passport, foreign identity

- Sends Form I-360 to the lockbox along with:

How Does A Child Apply For SI箱
Evidence that the applicant continues to have a valid dependency or juvenile order, unless terminated due to age

Copy of the applicant's date of birth and country of birth approval notice

Concurrently filed Form I-360 or copy of the Form I-797

Supporting documentation includes:

Juvenile not in removal proceedings

Form I-485 can be filed concurrently with the Form I-360 for a

With correct fee or fee waiver request

Fills Form I-485 along with supporting documentation

How Does a Child Apply for a SI-1 Green Card?
any convictions or an arrest record
- Certified copies of court disposition(s), if the juvenile has an
  Application for Employment Authorization (Form I-765)
  (601)
  Application for Waiver of Grounds of Inadmissibility (Form I-
  Biographic Information Sheet (G-325A), if over 14
  If applicable or applicable:
  (Form I-693)
  Report of Medical Examination and Vaccination Record
  Two (2) passport-style photographs
  Required documentation continued:

SIL-based Green Card? (cont'd)
How Does a Child Apply for a
the EB4 category.

- SIDS who file for Adjustment of Status are subject to the cap on

  EOIR has jurisdiction only if child is in removal proceedings.

Form I-485
(The clock stops for RFEs)

- All cases must be adjudicated within 180 days upon receipt.

- USCIS always has jurisdiction.

Form I-360

Adjudication Issues
(6)(B) Unlawful Presence
(7)(A) Valid Documentation
(6)(D) Stowaways
(6)(C) Misrepresentation
(6)(A) Present without Admission or Parole
(5)(A) Labor Certification
(4) Public Charge

Following INA § 212(a) grounds of inadmissibility:
SIJ applicants for adjustment of status are exempted from the
exempted.
United States or obtain a waiver of inadmissibility unless
An applicant for SIJ-based AOS must be admissible to the

Inadmissibility
purposes of §1 based adjustment of status.

Note: SJs are deemed paroled into the United States for

INA § 212(a).

otherwise in the public interest, or as otherwise allowed under

waivers may be for humanitarian purposes, family unity,

(3)(A), (B), (C), (E), Security and Related Grounds

marijuana

offense of simple possession of 30 grams or less of

(2)(A), (B), (C), Criminal Grounds - except for a single

including:

other INA § 212(a) inadmissibility provisions do apply,

Inadmissibility (cont’d).
The need for an expedited decision if conducting an interview will slow adjudication processing times.

The sensitive nature of issues of abuse, neglect, or abandonment.

The age of the juvenile (e.g., 14 years of age and younger).

Hardship to the petitioner?

Would the interview without an interview?

Petition without an interview?

Does the file contain sufficient information and evidence to grant the interview, the officer should consider:

When deciding if it would be appropriate to waive an SIV.

180-day deadline, and URM expedite.

Flexible policy is appropriate because of the population, the based AOS application on a case-by-case basis.

Field offices may waive the interview for the SIV petition or SIJ.

Interviews Waivers
Conducting the Interview

- They would like the officer to consider:
- Does the child have any additional documents or evidence?
- Has the child submitted proof of age?
- Is the court order still valid, and if not, why not?
- Eligibility for adjustment of status (only for Form I-485).

Focus the interview on:

- Avoid questioning the child about the details of the abuse.
- Establish a child-friendly interview environment.
- Conducting the Interview
- Deter to juvenile court's findings and expertise.
  
  Sought primarily as an immigration benefit. Therefore, if it is determined that the petition is not bona fide, the record should sufficiently reflect that the order was immigration benefit. Because S.J. status is an immigration benefit, petitioners will almost always be seeking S.J. status, in part, to obtain the related benefits.

- Obtaining an immigration benefit from abuse, neglect or abandonment rather than primarily for administrative best-interest determination (primarily to obtain relief means that the child sought the juvenile court order (and any other court order) for the S.J. petition is bona fide. This is an acknowledgment that the S.J. petition is bona fide. This approval of an S.J. petition itself is the evidence of consent.

- USCIS must consents to the grant of the Form I-360.

USCIS consents
there was a sufficient factual basis for the court’s findings.

USCIS may issue an RFE if the record does not reflect that

usually be sufficient to establish eligibility.

supplemented by specific findings of fact or a factual basis will contain the necessary findings that include or are

Officers should not second-guess the court’s rulings. Orders

established, or a reasonable basis exists.

The facts that formed the basis for the court’s order are

Consent should be granted if the petition is bona fide; and

Factual Basis for Court Findings
or neglected the child. Members of the individual who allegedly abused, abandoned, or neglected the child.

Do not request that a petitioner contact the individual or family. Convention on Consular Relations, etc.

Do not request documents such as school or employment records, or juvenile-related proceedings. Be mindful of confidentiality rules that may restrict disclosure of apprehension.

Be aware of statements made by children at the time of initial reliance on statements made by children when contemplating

RFE Limitations
Answer: Yes.

SIL status. May consent be given?

Court-appointed individual with custody so she can apply for court-appointed juvenile court order identifying her mother as the compliant juvenile court order, court-appointed individual with custody identifying her mother as the child welfare system. The child has obtained an SIL care of her mother in New York. The child has never been in care of her mother in New York. The child has never been apprehended, taken into ORR custody, and released to the child welfare system. Her mother assisted her daughter with making plans to come to join her in the United States. Her child was aged 15 years old child was sexually abused by her father in Guatemala.
or issue a NOID.

Answer: No. Should request additional evidence (Issue RFE). Should consent be given?

on her birth certificate. Based on this information alone, shouldn't child's aunt be granted custody. The child has no father listed years. Her mother goes to court to request that her sister (the

with her biological mother in the United States for the past 10

A 17-year-old, unmarried, child from Honduras has been living

Consent Case Example #2
Case Example #3

Answer: Yes.

Given?
placement. If the child is otherwise eligible, should consent be
its supervision due to the finalization of the adoptive
current at the time of filing the I-360, since the court terminated
work or receive financial aid. The Juvenile court order is not
petition, when the family realizes the child is not authorized to
the age of 15. At the age of 17, the child files a Form I-360 SIJ
terminated and the child was adopted by his foster family at
long term foster care. His mother’s parental rights were
services in California due to child abuse and was placed in
A child was removed from his mother’s care by child protective
but may file a motion to reopen or reconsider.

- An S1L-based applicant for AOS does not have appeal rights.

- USCIS reopen reconsider an adverse USCIS decision.

- A S1L petitioner with a denied Form I-360 may file a Form I-290B with the AAO to appeal an adverse decision or request

- Officers may consult with the local management, who may in consultation with the Regional POC on complex S1L cases.

- NOIDs and denials of S1L petitions should be reviewed by a

- A Request for Evidence is generally most appropriate where

- The evidence is insufficient to approve the petition.

- Denials
Interests to return to country of origin

- Determination is made that it is in the applicant’s best
  interests to return to country of origin on a similar basis
  previously viable due to abuse, neglect, abandonment, or a
  previously valid marriage.
- The court orders reunification with the parent(s) that was
  earlier related to the effective period of the order
- The juvenile court order terminates (unless for reasons
  outlined earlier related to the effective period of the order
  earlier related to the effective period of the order)
- The applicant marries

Currently, auto revocation occurs if:

- Note that the regulation at 8 C.F.R. § 205.1 (a)(3)(i)(v) is

Auto Revocation
Give to the Juvenile?

What Documentation does USCIS require?

- Permanent Resident (ADIT) stamp in passport (if juvenile has passport)
- EAD card (if applied for with Form I-765)
- Lawful Permanent Resident Card ("green card")

Form I-485
- Approval Notice, Form I-797
- Form I-797C for receipt

Form I-360
Module 7: Review
A: All of the above (T)

T: All of the above

e. In federal custody with ORR.
d. Residing with an adoptive parent.
c. In the state foster care system.
b. Abused while in the United States.
a. Abused in their home country.

Q: Which of the following may be eligible for SIJ? Children:

Review
Review
Q: Who is eligible for SIJ status? A child:

- a. Deemed eligible by a juvenile court for long term foster care
- b. Who cannot be reunited with one or both of the juvenile's parents due to abuse, neglect, abandonment, or similar basis under state law
- c. Both
- d. Neither

A: b - That cannot be reunited with one or both of the juvenile's parents due to abuse, neglect, abandonment, or similar basis under state law
Q: Which courts may issue a Juvenile Court order?

Review

A: Juvenile, probate, and delinquency (e)

f. all of the above

e. b, c, and d

d. delinquency

c. probate

b. Juvenile

a. Immigration Court
was a valid factual basis for the court's findings.

A: False. (However note the record must establish that there

False?

neglect or abandonment to establish the factual basis. True or

O: The court order must contain the details of the abuse.

obtain an immigration benefit.

A: If the record shows that the order was sought primarily to

Review
Establish a non-adversarial interview environment: be very clear with the child about the purpose of the interview, build rapport, explain what will happen, and answer any questions. Consider the child's developmental level and culture.

Understand the impact of trauma and abuse: accept that children may not be forthcoming about events that have caused pain separate, avoid leading questions, use child-friendly language: keep questions simple, reassure the child, etc. Be sensitive to the child's needs/comfort level. „Read“ the child, take breaks.

Q: What are some child-friendly interviewing techniques?

A: Review
Questions
Module 8: Administrative
Questions or suggestions regarding this training module should be addressed through appropriate channels to the Field Operations Directorate.

HQ Contacts
About this Presentation

- Case law, relate to fictitious individuals
- Any references in documents or text, with the exception of

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