



New Hampshire
Judicial Branch



Language Access Plan

November 2, 2020

New Hampshire Judicial Branch
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Executive Summary

To fully meet the New Hampshire Judicial Branch's obligation and mission to provide equal access to the law, we have developed a Language Access Plan that details how limited English proficiency, deaf, and hard of hearing individuals are being assisted with interpretive services within our state courts. With increased globalization and movement of people across nations, the State of New Hampshire is becoming increasingly diverse in its population. In 2018, among New Hampshire's 1.3 million residents, approximately 100,000 people (8 percent) spoke another language at home. In 2019, cases involving more than 130 different languages were held in our state courts. For individuals who do not speak English as their primary language, access to the judicial system can be stressful and their ability to be well represented can be at risk. Likewise, individuals who are deaf or hard of hearing face similar access challenges when navigating the judicial process.

This report encompasses the Language Access Plan, including its history and current implementation, as well as the New Hampshire Judicial Branch's present resources for Limited English Proficiency, deaf, and hard of hearing individuals. The plan also details how individuals qualify for these court-provided services. Finally, the report sets forth the New Hampshire Judicial Branch's plans to expand these resources in the upcoming biennium.

NEW HAMPSHIRE JUDICIAL BRANCH'S 2020 LANGUAGE ACCESS PLAN

I. Language Access Plan Adoption and Effective Date

To further its mission of ensuring all individuals have meaningful access to the New Hampshire court system, the New Hampshire Judicial Branch (NHJB) adopts this Language Access Plan, effective November 2, 2020, regarding court-provided services for Limited English Proficient (LEP)¹ individuals, and individuals who are deaf or hard of hearing.

II. History of the New Hampshire Judicial Branch's Language Access Plan

In April 2012, the New Hampshire Judicial Branch's Administrative Council designated a committee to recommend improvements to foreign language interpreter services in New Hampshire courts. The committee was asked to review and analyze vendor bids for the provision of foreign language and American Sign Language interpreter services in New Hampshire courts, and to develop a Language Services Plan (now referred to as the Language Access Plan) for the statewide court system. On December 24, 2013, the New Hampshire Supreme Court adopted a Language Services Plan.

In April 2017, the Administrative Council designated a Language Access Committee to review the existing Language Services Plan, provide statistical updates, and make recommendations about additional steps to be considered to better serve the LEP, deaf, and hard of hearing populations. By Order dated February 6, 2018, the New Hampshire Supreme Court adopted an updated Language Access Plan, which is reviewed and updated every two years.

In November 2019, the Administrative Council appointed members to serve on the Language Access Committee to prepare the 2020 Language Access Plan that is set forth herein.

¹ An LEP individual is someone who does not speak English as her or his primary language and who has a limited ability to read, write, speak, or understand English.

III. Legal Standard on Access to Court Services

The New Hampshire Judicial Branch recognizes that it has both a statutory and constitutional obligation to ensure that all citizens that access the state courts are able to meaningfully participate in the process. The legal basis to provide language services to LEP individuals in New Hampshire courts arises from Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d, and the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Safe Streets Act), 42 U.S.C. § 3789d(c)(1). Title VI and the regulations promulgated thereunder require courts to take reasonable steps to ensure meaningful access to the information and services they provide.

In accordance with Title VI, the United States Department of Justice (DOJ) published a guidance document regarding LEP issues entitled *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002) (DOJ Guidance). The DOJ Guidance describes four factors to help governments determine whether the standard of “reasonable steps to ensure meaningful access” by LEP individuals is being satisfied. These factors are:

- number or proportion of LEP individuals in the eligible service population;
- frequency of contact with the program;
- nature and importance of the program; and
- resources available and costs.

In September 2016, the DOJ issued a report about language access in state courts. The report urges states to continuously review their respective LAPs to determine whether they keep pace with evolving demographics within each state.

Additionally, the Americans with Disabilities Act, which is not part of Title VI, mandates interpretive services for people who are deaf or hard of hearing. The NHJB provides these services as well, and they are also outlined in the Language Access Plan.

IV. LEP Population in New Hampshire

The LEP population is identified from U.S. Census Bureau (Census Bureau) data. The Census Bureau, which used to collect language data every 10 years, now does so annually through the American Community Survey (ACS). To ascertain New Hampshire’s LEP population, the ACS survey for 2018 estimates the state’s population of residents five years of age or older at 1,279,543. Of this population, eight percent of New Hampshire residents (100,557 people), who are more than 5 years of age, spoke a language other than English at home. Of those speaking a language other than English at home, 27 percent (27,776 people) spoke Spanish. Of the total respondents who speak another language at home, 32 percent (31,741 people) were estimated to speak English less than “very well.” Tables 1 and 2 below elaborate further on the composition of languages which New Hampshire residents speak at home.

Table 1. Characteristics of Language Spoken at Home of the N.H. Population in 2018

Subject	Total Number of Speakers	% of NH Population	Speak English “Very Well”	% of NH Population	Do Not Speak English “Very Well”	% of NH Population
Population 5 years of age or older	1,279,543					
Speak only English	1,178,986	92.1%	--	--	--	--
Speak a language other than English	100,557	7.9%	68,816	68.4%	31,741	31.6%
• Spanish	27,776	2.2%	18,074	65.1%	9,702	34.9%
• Other Indo-European languages	45,810	3.6%	34,559	75.4%	11,251	24.6%
• Asian and Pacific Islander languages	19,794	1.5%	11,657	58.9%	8,137	41.1%
• Other languages	7,177	0.6%	4,526	63.1%	2,651	36.9%

Languages Spoken in NH Homes

■ English ■ Spanish ■ Other Indo-European ■ Asian and Pacific ■ Other

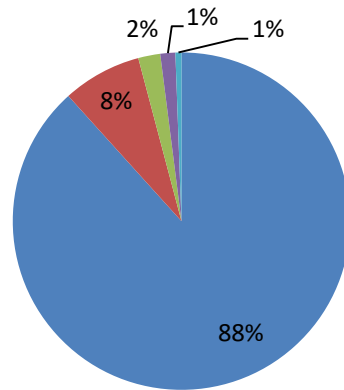


Table 2. Languages Spoken in New Hampshire Homes with Residents 5 Years of Age or Older in 2018

Language	Estimated # of Speakers	Language	Estimated # of Speakers
Spanish or Spanish Creole	27,776	Other Pacific Island languages	1,188
French (incl. Patois, Cajun)	21,848	Gujarati	961
Chinese	5,450	Mon-Khmer, Cambodian	867
Other Asian languages	4,260	French Creole	836
German	3,910	Other Slavic languages	810
Other Indic languages	3,452	Japanese	745
Portuguese or Portuguese Creole	3,055	Urdu	662
Arabic	2,820	Laotian	593
Greek	2,342	Other West Germanic languages	564
Russian	1,943	Other and unspecified languages	504
African languages	1,783	Hebrew	482
Other Indo-European languages	1,744	Thai	381
Vietnamese	1,675	Scandinavian languages	369
Serbo-Croatian	1,672	Hungarian	357
Hindi	1,622	Persian	206
Tagalog	1,479	Armenian	150
Italian	1,421	Native North American languages	93
Korean	1,273	Yiddish	16
Polish	1,199	Hmong	5

V. Data of Interpreter Services Provided in New Hampshire Courts

The Language Access Committee also obtained data from Language Bank, the NHJB’s primary vendor, of interpreter services provided in 2019. Language Bank provided interpreter services to nearly 1,000 individuals in more than 2,000 encounters. Interpreters also assisted LEP individuals, who speak Spanish and Portuguese, during regularly scheduled time blocks at select circuit courts. In 2019, there were approximately 500 of these block appointments. Tables 3 and 4 detail the instances of language interpretations by Language Bank, as well as the case types impacted, in 2019.

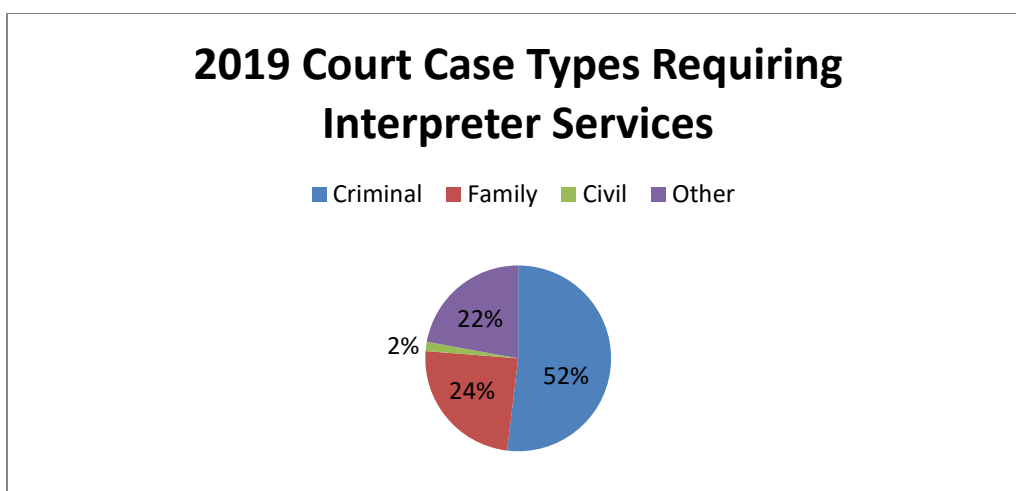
Table 3. Top 10 Types of Language Interpretations Provided by Language Bank in 2019

Language	Individual Data	Total Number
Spanish or Spanish Creole*	1,250	1,746
Arabic	112	112
Swahili	97	97
Kinyarwanda	83	83
American Sign Language	82	82
Portuguese	76	76
Chinese (Mandarin)	60	60
French	39	39
Vietnamese	31	31
Haitian Creole	30	30
Other	128	128
Total	1,988	2,484

*Provided in 496 Scheduled Time Blocks

Table 4. Case Types That Required Interpreters Provided by Language Bank in 2019

Case Type	Total Number
Criminal	1,287
Family	604
Civil	42
Probate	33
NH Hospital	15
Child Impact Program	20
Other	483
Total	2,484



VI. NHJB Contract for Interpreter Services

The NHJB utilizes an outside vendor to recruit, train, test, and provide interpretive services within New Hampshire state courts. In 2019, after conducting a public bidding process, the NHJB entered into a new 4-year contract with Ascentria Community Services, Inc. (aka “Language Bank”) to provide language and ASL interpreter services. Language Bank had been providing this service contractually within New Hampshire state courts since 2012. Language Bank implements objective language tests and screening for all foreign language interpreters and ensures that all ASL interpreters are qualified. It provides foreign language interpreters, particularly Spanish and Portuguese interpreters in scheduled time blocks, and ASL interpreters for all court proceedings in the circuit courts with the greatest foreign language needs. In addition, Language Bank provides training to NHJB personnel on the effective use of interpreters. A copy of the Judicial

Branch's contract with Language Bank is available for review upon request. On the occasions when Language Bank is unable to provide interpreter services, the NHJB draws from a list of other vendors in the New England region who can provide foreign language and ASL interpreters.

Along with the Language Bank, the NHJB uses Language Line to provide interpreter services in clerks' offices, in courtrooms, and for individuals who contact the NHJB Information Center. Language Line provides on-demand access to more than 11,000 professional interpreters nationwide in over 240 languages.

VII. Interpreter Services Provided in New Hampshire State Courts

A. Individuals Who Qualify for Interpreter Services Provided by the Court

In accordance with the United States Department of Justice guidelines, the NHJB provides interpreter services free of charge to the following LEP individuals and people who are deaf or are hard of hearing:

- Litigants, witnesses, and jurors as needed for court hearings;
- Those seeking access to NHJB information or services through the Information Center and/or a court clerk's office;
- Those having a significant interest in a court proceeding, as determined by the presiding judge. A "significant interest" will be determined based on an evaluation of the following factors:
 - The relationship of the individual to the matter before the court;
 - The seriousness of the matter; and
 - The impact of the outcome on the individual.

B. Identifying When an Interpreter is Needed for a Court Proceeding

Data has revealed that many people who might need an interpreter in courts nationwide will not request one either because they do not realize that interpreters are available or, alternatively, because they do not realize the level of English proficiency or communication skills they will need to understand court pleadings and court proceedings.

In our court system, NHJB staff members have the responsibility to help determine when an interpreter is needed. Each court uses various means to determine whether an individual has limited English proficiency or is deaf or hard of hearing and needs an interpreter for a court hearing. The individual who needs a court interpreter may self-identify prior to a court proceeding. Alternatively, the individual's lawyer, or anyone acting with permission on the individual's behalf, may also request interpretive services upon receiving notice of a court proceeding. In addition, an individual who is deaf or hard of hearing may file a request for an ADA accommodation on the NHJB form, available on the court's website, to request assistance. Alternatively, the need may be identified by a court staff member, clerk, or judge prior to, or during, a court hearing.

If an individual appears at a court with no interpreter and court staff is unsure what language the individual speaks, court staff use "I Speak" cards to help identify what language the individual speaks. These cards contain the sentence "I Speak {language}" translated from English into several different languages. LEP individuals can point to the phrase in their language so that an interpreter may be requested. When it appears that an individual has difficulty communicating, the NHJB's policy is to proactively provide an interpreter to ensure him or her full access to the court.

The NHJB has a Foreign Language Interpreter Bench Card and an American Sign Language Bench Card that provide both judges and clerks with necessary guidance on determining when an interpreter is needed for court proceedings, as well as instructions for all court participants. These guidelines allow for a clear record where interpreter services are employed, clarification for parties, counsel, witnesses, and jurors on the role of an interpreter, and the oath to administer to interpreters to be made part of the court record. The bench cards allow judges and clerks to properly swear in interpreters before they provide services, and to explain to jurors the role of an interpreter in a particular case. Interpreters are expected to abide by the Judicial Branch Ethics for Interpreters, which is available on the NHJB website.

The NHJB has a duty to inform all LEP individuals and all individuals who are deaf or hard of hearing of the availability of interpreters, and that these services will be

provided to them free of charge. This information is provided at the moment of their first encounter with the court. Notice is given by:

- Posting the availability of interpreters on the NHJB’s website, which can be translated via Google Translate;
- Having a brochure about the right to an interpreter in court made available in on the NHJB website as well as shared with the New Hampshire Bar Association; New Hampshire Public Defender’s Office; and other legal service agencies;
- Placing signs prominently at the front of each court, in court clerks’ offices, courtrooms, and other public areas of the courthouse; and
- Using “I Speak” cards in court clerks’ offices.

To the extent possible, the NHJB should identify the need for interpreter services as early as possible to ensure that an interpreter will be available for the court proceeding. Once this information is obtained, the NHJB’s case management system tracks interpreter needs through case records by use of interpreter flags that alert court staff, ensuring that they arrange for an interpreter for all future hearings in a particular case.

C. Types of Services Provided

1. Courtroom Proceedings

In providing interpreter services during courtroom proceedings, the court secures interpreter assistance in the following order of preference. First, the court will request the services of in-person interpreters. Should Language Bank be unable to provide an interpreter, each court has a list of alternate in-person interpreters. When an in-person interpreter is unavailable and, if circumstances are appropriate given the nature and seriousness of the proceeding, the court will request that Language Bank supply telephonic or remote interpreter services. In 2020, all state courts have been equipped with necessary technology to conduct remote hearings. Remote interpreting will primarily be used if the court proceeding is short, if the distance an interpreter will have to travel is long, or if a rare language interpreter is needed. The presiding judge will determine whether remote interpretation is appropriate and the conditions under which such remote interpretation will be conducted.

The court may also obtain telephonic interpreter services through Language Line Services, Inc., a telephonic interpretation service. In cases where the court is

required to provide an interpreter, but none are available at the time of the court proceeding, even after reasonable efforts to locate one have been made, the proceeding will be postponed to a date when an interpreter can be provided.

2. Clerk's Offices

Two of the NHJB circuit court locations, Manchester and Nashua, have Spanish-speaking interpreters during scheduled blocks of times throughout the week to provide individuals with in-person translation services when communicating with clerk staff. The Manchester Circuit Court has a Portuguese-speaking interpreter for scheduled blocks of time as well. The clerk's office will provide interpreter services through Language Line or in-person interpreters when scheduled in advance for all other courts or interpretive needs of foreign language, deaf or hard of hearing individuals when communicating with court staff.

3. Trial Courts Information Center

The NHJB's Information Center utilizes Language Line to assist LEP individuals who call in; however, as set forth below, the NHJB will undertake initiatives to better identify LEP individuals or those who are deaf or hard of hearing at the outset of a telephone communication.

4. Court-Mandated Programs

The NHJB provides interpreter services for certain court programs, such as Drug Court proceedings, all court-ordered mediations, and mediations in Abuse and Neglect and Termination of Parental Rights cases.

In addition, the NHJB provides interpreter services for individuals assigned to the Child Impact Program. This program is mandated for parents of children under 18 in divorce and parenting cases. When the court orders an individual to participate in outside services such as driver's education classes, domestic violence programs, and mental health examinations, the Court does not provide an interpreter. LEP individuals, or those who are deaf or hard of hearing, who participate in these programs should be offered referrals to agencies that offer interpreter services. Programs that are a condition of probation or parole do not qualify for interpreters to be provided by the courts.

5. Non-Eligible Court-Related Events

Private attorneys, public defenders, county attorneys, or attorney general staff, are responsible for providing qualified interpretation and translation services for witness interviews, pre-trial transcriptions and translations, and attorney/client communications.

D. Assistive Listening Technology Utilized in New Hampshire Courts

In addition to remote video interpretation, the NHJB utilizes other forms of technology to provide language access services. For example, every courthouse is equipped with portable assistive listening devices (ALD) that are available in the clerk's office. The ALD devices help address listening challenges in the courtrooms in three ways: by minimizing background noise, reducing the effect of distance between the sound source and the deaf or hard of hearing individual, and overriding poor acoustics. In addition, the NHJB's primary vendor for interpreter services (Language Bank) provides ASL interpreters and Communication Access Real-time Translation (CART) for qualifying individuals who are deaf or hard of hearing.

VIII. Complaint Procedure for Interpreter Services in New Hampshire Courts

Any individual who feels that the quality of the interpreter or translation service provided was inadequate, or that his or her rights to meaningful language access to the court have not been met by the NHJB, may file a written complaint with the Administrative Office of the Courts. The Director of the Administrative Office of the Courts, or his or her designee, will review, investigate, and respond to any such administrative complaint within thirty (30) days of the date of its receipt. The Director, or his or her designee, will take any necessary corrective action as soon as is practicable.

Complaint forms are posted on the NHJB website, including a Spanish version, and are available in the clerk's office in each court location. Completed complaint forms should be directed to:

Christopher M. Keating, Director
Administrative Office of the Courts
1 Granite Place, Suite N400

IX. Training on Using Interpreters in New Hampshire Courts

Language Bank has developed a curriculum for training judges and court personnel on language access issues. The NHJB has provided this training periodically but, going forward, plans to provide the training on a bi-annual basis to judges and clerks, and to all new court employees, as part of their new employee orientation. This curriculum includes training with respect to the Language Access Plan, identifying language needs of LEP individuals, and locating and obtaining sources of interpreter services. The training also covers working effectively with an interpreter in-person and on the telephone, tracking the need for interpreter services in the case management system, and understanding the role of the interpreter in court proceedings.

X. New Hampshire Judicial Branch New Initiatives for 2020–22

Based on assessments the Language Access Committee has made, the NHJB will begin several new initiatives during the next two years to improve access to relevant forms and other services for LEP, deaf, and hard of hearing individuals. This will include formalizing the role of the Language Access Committee, broadening available resources to explain what interpretative services are available, training judges and staff on language access skills, and dedicating staff time and resources to creating and maintaining connections with New American and LEP populations. The NHJB is committed to improving the services we offer to ensure the courts are more accessible to LEP, deaf, and hard of hearing individuals.

A. Translated Forms and Documents

A copy of the 2018 Language Access Plan and Complaint Form has been translated into Spanish and both documents, English and Spanish, are presently available on the NHJB website. Beginning in 2021, the NHJB will translate a number of court forms into Spanish and make them available on the website to be used as a guide for litigants. However, in accordance with RSA 509:1, all court forms submitted for filing and existing in the record must be in English.

The NHJB plans to translate court forms into additional languages following this initial project. To that end, the Language Access Committee has surveyed state court judges and clerks to determine what court forms would be most helpful to litigants and attorneys. The most cited forms were related to pleas and sentencing which is consistent with data from the NHJB's case management system which indicates that criminal cases are the most predominant case type (51.8 percent) where interpreters are utilized. Small claims and marital/domestic are also case types where court forms would be helpful. The NHJB has also identified grant-funded programs where translated court forms and information sheets would be of substantial value.

A subcommittee of the Legal Access Committee will be appointed to identify and arrange for translation of the most helpful court forms. They will complete the initial phase of this project by March 1, 2021, and provide a summary report to the New Hampshire Supreme Court and Administrative Council.

B. Standing Language Access Committee

Going forward, the Language Access Committee, as appointed by the New Hampshire Administrative Council, will be a standing committee that meets at least twice annually to assess the interpreter services provided in the courts. The committee will be charged with assessing interpreter services, identifying training opportunities, overseeing the work of the forms sub-committee, and providing an annual report to the New Hampshire Supreme Court and Administrative Council. The committee's work should include meetings with external stakeholders to receive input on the status of interpreter services as well as potential initiatives for the NHJB to consider.

C. Expansion of Resource Materials Explaining Right to Interpreter Services

The Language Access Committee will create a brochure describing an individual's right to an interpreter in New Hampshire state courts and explaining how to access interpreter services. The Committee will consult with the New Hampshire Bar Association and other legal agencies on how to best make the brochure accessible to the public. The brochure will be completed and available by June 30, 2021. Additionally, the Language Access Committee will create content material to be

included on the NHJB's website interpreter page that describes the rights to an interpreter and explains how to request interpreter services.

The NHJB presently has some videos on its website translated into Spanish. The Language Access Committee will identify additional videos that should be translated, as well as videos that should have ASL translations. This review should include and prioritize videos about how to e-file in the courts. In addition, the committee will investigate the use of closed captioning on all live-streamed court proceedings and other recorded events.

The NHJB presently has signage in all courts relative to the availability of listening devices. As of January 1, 2021, the NHJB will display additional signage at all court entrances and clerks' offices to represent the availability of foreign language and ASL interpreter services in all courts. The signage will be in English, Spanish, Arabic, Chinese, and Portuguese, the most commonly interpreted languages in New Hampshire Courts in 2019. The signage will be reviewed on a bi-annual basis to determine whether additional languages should be added.

D. Creation of NHJB Language Access Coordinator Duties

Effective immediately, the NHJB's general counsel will assume the duties and responsibilities of the language access coordinator until the NHJB is able to fully develop the position. The coordinator will oversee the work of the Language Access Committee, visit all courts to ensure proper materials and signage exist, and coordinate regular training of new employees, judges, and court staff on interpreter services in the courts. The coordinator will also attend national trainings to learn of initiatives and technology, assist court staff in obtaining interpreters for remote languages, and implement quality assurance measures of court interpreter services.

E. Implementation of Language Access Training as Part of Mandatory New Employee Orientation

The NHJB will develop and implement training for all new employees, including court security officers and judges, on how to identify and assist individuals who require interpreter services. This training is to be developed by June 30, 2021, and will be used in all orientation programs going forward. In addition, judges will be

offered rudimentary language skills training in Spanish and other languages commonly heard in their courtroom to help create a more welcoming environment.

XIII. Conclusion

Building on the Language Access Plan developed in previous years, the NHJB continues to make progress in delivering interpretive services and resources in our state court system for individuals with limited English proficiency, as well as those who are deaf or hard of hearing. Using U.S. Census data, the NHJB has identified a population of nearly 30,000 New Hampshire residents who do not speak English well and for whom interpretative services could potentially be required. In 2019, the NHJB hired Language Bank, an interpretive services vendor, to provide interpretive assistance meeting this potential need, and Language Bank has been engaged in nearly 2,500 cases.

As the need for interpretive services persists, the NHJB has developed this Language Access Plan to identify and develop new resources for use on the website and in printed materials for courthouses, create additional trainings for new court staff and others, and, through the language access coordinator, develop a community outreach program to bridge the gap between the court system and LEP populations in the state.

These efforts, and the continued services offered by the NHJB, will ensure that all New Hampshire's residents, no matter what language they speak, will find equal access to justice within the state's courts.



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