Regulations Concerning the Investigation of Research Misconduct

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Full legislative history appears at the end of this document.

PREAMBLE

Research is central to the mission of the University, to the advancement of knowledge, and to the social well-being, health and the economic development of society. The University, funding agencies and other public and private sponsors of research and related activities recognize that research can best flourish in a climate of academic freedom, a climate premised on trust in, and the integrity of, members of the University research communities and their compliance with the policies, practices and ethical norms governing research. Thus, the University is committed to the ongoing education of the members of its community in matters of research integrity.

However, it must also be recognized that in research, as in any human endeavour, there are some who are alleged to have failed to adhere to accepted norms. Allegations of research misconduct may arise from sources within or outside the University – and allegations may or may not be well-founded. Whatever their source, motivation or accuracy, such allegations have the potential to cause great harm to the persons accused and their associates, to the accuser, to the University, and to research and scholarship in general. Thus, it is in the interests of the public, funding agencies and other sponsors of research, and the University, that the University has in place an appropriate procedure for assessing allegations of research misconduct and, where warranted, investigating such allegations and reporting the results of investigations to relevant University authorities and agencies. Moreover, funding agencies hold institutions responsible for investigating allegations of misconduct involving members of their research communities and generally require that they have in place appropriate policies and procedures.

These Regulations, which apply to all allegations of research misconduct, regardless of the discipline involved, establish a procedural framework that will:

- ensure a prompt and appropriate response whenever an allegation of research misconduct is made; and
- ensure the protection of the interests of:
  - those alleged to have engaged in misconduct;
  - those making allegations of research misconduct;
  - those who, while not directly implicated in, are nevertheless directly affected by, allegations of misconduct;
  - the University and its affiliated institutions;
  - the funding agencies and other sponsors of research; and
  - the public.

1. DEFINITIONS

For the purposes of this policy:

1.1 “Advisor” means a Member of the University Community who has agreed to act gratuitously in an advisory capacity to a Respondent, Complainant or Witness. Such individuals act in
accordance with these regulations and are deemed, in so doing, to perform part of their academic duties. They do so without receiving additional remuneration. An Advisor shall be accorded full respect by the University's administrative officers.

1.2 “Agency” means the funding agency, foundation, organization, sponsor or other entity, public or private, international, national, provincial or foreign, which supports the research in whole or in part, or which has oversight of any research activities, in respect of which the Research Misconduct is alleged to have occurred.

1.3 “Chair” means the chair(s) or director(s) of the department(s), institute(s), school(s) or centre(s) of the Respondent’s appointment, registration or affiliation. Where there is more than one Respondent, "Chair" means the chair(s) or director(s), of each Respondent's respective department(s), school(s), institute(s) or centre(s) of appointment, registration or affiliation.

1.4 “Committee” means the group assembled to investigate allegations of Research Misconduct.

1.5 “Complainant” means a person who makes an allegation of Research Misconduct.

1.6 “Data” means the recorded factual information and material, both physical and electronic, commonly accepted in the relevant scholarly community as necessary to validate research findings including, but not limited to, research proposals, laboratory records, progress reports, internal reports, and presentations. Data includes all information or records of any sort related to the application for, performance of, or Results obtained from the research in question.

1.7 “Dean” means the deans of all faculties to which the Respondent is appointed or with which the Respondent is registered or affiliated and, where there is more than one Respondent, the deans of all faculties to which the Respondents are appointed or with which they are registered or affiliated.

1.8 “Expert” means a person who has requisite skill or knowledge relating to a particular subject as determined by the Research Integrity Officer (RIO) or the Committee, as the case may be.

1.9 “Good Faith Allegation” means an allegation that is not malicious or frivolous made by a Complainant who has reasonable grounds to believe that Research Misconduct may have occurred.

1.10 “Member of the University Community” means a member of the academic, administrative and support staff of the University and its affiliated institutions, as well as students, fellows, technicians, health care workers, programmers, analysts, guests and visiting researchers including, but not limited to, any person paid by, under the control of, or contributing in any manner to a research project in the University or an affiliated institution.

1.11 “Plagiarism”\(^1\) means presenting and using another's published or unpublished work, including theories, concepts, data, source material, methodologies or findings, including graphs and images, as one's own, without appropriate referencing and, if required, without permission.

1.12 “Research Misconduct” includes, but is not limited to the definitions of the funding agencies for such misconduct, for example: fabrication, falsification, Plagiarism, mismanagement of research funds, misappropriation of intellectual property rights of another, or any other conduct that constitutes a significant departure from the ethical and other standards that are commonly accepted within the relevant research community for proposing, performing, reporting or reviewing research or treating human and animal research subjects. Research Misconduct does not include:

(i) honest errors or differences of interpretation or judgment relating to Data or Results that are reasonable in light of the circumstances in which they are made or reached; or

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\(^1\) Tri-Agency Framework: Responsible Conduct of Research, Section 3.1 Breaches of Agency Policies, p.5
(ii) alleged Plagiarism by students relating to unpublished research that is undertaken for academic credit, provided that the allegation implicates only students. Such allegations shall be dealt with in accordance with the Code of Student Conduct and Disciplinary Procedures. However, if the alleged Plagiarism is in a graduate thesis, it is reviewed as Research Misconduct.

1.13 “Research Record” includes any Data or Results in any medium.

1.14 “Respondent” means a Member or Members of the University Community against whom an allegation of Research Misconduct is directed, or who may be implicated in an allegation of Research Misconduct (as, for example, co-authors or co-investigators or other members of a research team), or who becomes the subject of an investigation. Respondent also includes a past Member of the University Community against whom an allegation of Research Misconduct is directed with respect to research activities conducted while a Member of the University Community.

1.15 “Results” means the project’s findings, including conclusions and outcomes, reached in the research in question.

1.16 "Witness" means a person who testifies before the Committee.

2. PROHIBITION OF RESEARCH MISCONDUCT

2.1 No Member of the University Community shall:
   (i) engage in Research Misconduct; or
   (ii) make an allegation of Research Misconduct that is not a Good Faith Allegation.

3. RESEARCH INTEGRITY OFFICER

3.1 The Principal, following consultation with the Provost and the Vice-Principal (Research and International Relations), shall appoint from the academic staff of the University a Research Integrity Officer (“RIO”) and a Deputy Research Integrity Officer.

3.2 The RIO shall make diligent efforts to ensure that:
   (i) the assessment or investigation of an allegation is conducted in a timely, objective, thorough, competent and fair manner and in accordance with these Regulations. To this end, the RIO shall assist the Committee on Research Misconduct in its work;
   (ii) notification is provided to the Agency, if any, where required by the Agency’s rules;
   (iii) interim administrative actions are taken, as appropriate, to protect human or animal research subjects, research funds, research collaborators, Members of the University Community and the public, and to ensure that the purposes of the funding provided by an Agency, if any, are carried out.

3.3 The RIO shall take all measures deemed necessary to protect the integrity of the Respondent’s research facility, Research Records, research personnel including students, and research funds.

3.4 The Deputy Research Integrity Officer shall serve as RIO only in the event that the latter is unable to serve or is disqualified in a particular case for conflict of interest.

4. RESPONSIBILITY TO REPORT RESEARCH MISCONDUCT

4.1 Every person who has reasonable grounds to believe that Research Misconduct is occurring or has occurred in the University or an affiliated institution shall immediately report the matter:
   (i) to the RIO; or
   (ii) in accordance with provisions of the Policy on Safe Disclosure.
4.2 Where a person is unsure whether a suspected incident constitutes Research Misconduct, guidance should be sought from the RIO.

4.3 A person who makes a Good Faith Allegation of Research Misconduct shall be entitled to protection from retaliation.

4.4 All Members of the University Community, including Complainants and Respondents, shall cooperate with the RIO and, if one is constituted, the Committee on Research Misconduct.

5. **ASSESSMENT OF ALLEGATION**

5.1 Within seven (7) calendar days of receiving an allegation of Research Misconduct, the RIO, in writing, shall:

(i) notify the Respondent of the allegation and of the right to an Advisor at any stage in the process;
(ii) ensure that the Respondent has access to these Regulations.

5.2 Within thirty (30) calendar days of receiving an allegation of Research Misconduct, the RIO shall determine whether there is sufficient evidence of possible Research Misconduct to warrant an investigation, whether Agency funds or applications for funding may be involved, and whether the allegation may fall under the applicable Agency's definition, if any, of Research Misconduct.

5.3 In making the determination, the RIO:

(i) shall meet with the Respondent;
(ii) may meet with the Complainant;
(iii) where necessary, may consult in strictest confidence one or more Members of the University Community, or one or more external Experts who are at arms-length from the alleged Research Misconduct; and
(iv) where the allegation relates to research involving human or animal subjects, may consult with the chair of the committee charged with approval of the research.

5.4 Where feasible, the RIO shall not disclose any nominative information relating to the Complainant or the Respondent when meeting with Members of the University Community or external Experts.

5.5 Anonymous allegations of Research Misconduct supported by substantive evidence may be acted upon by the RIO.

5.6 If the RIO determines that there is not sufficient evidence of possible Research Misconduct to warrant an investigation, the RIO shall, within 10 days of making that determination, so notify the Complainant, provided that the RIO determines the Complainant has a legitimate and direct personal interest in the matter or needs to be aware that no investigation will occur, and the Respondent in writing, with reasons.

5.7 If the RIO determines that there is sufficient evidence of possible Research Misconduct to warrant an investigation, the RIO:

(i) shall initiate the investigation process and so notify in writing: the Respondent; the Chair and Dean; the Complainant, provided that the RIO determines the Complainant has a legitimate and direct personal interest in the matter or needs to be aware of the investigation; other appropriate University officials; and, if applicable, the funding Agency. Where a graduate student or postdoctoral fellow is implicated in the allegations, the notification shall also be sent to the Dean of Graduate and Postdoctoral Studies.

(ii) shall request the Dean, the Vice-Principal (Research and International Relations) the Secretary-General and the Dean of Graduate Studies, where appropriate, to advise the RIO of the names of their appointees to the Committee on Research Misconduct;

(iii) shall invite the Respondent to meet with the RIO to discuss the investigation process;
(iv) where an allegation of Research Misconduct includes mismanagement of research funds, shall notify the Internal Audit Department and request that they review the matter and prepare a report relating to the allegation of mismanagement of research funds, a copy of which shall be provided to the Committee on Research Misconduct;

(v) may sequester, locate, collect, inventory, and secure all the relevant original Research Records, or copies if the originals are unavailable, to prevent the loss, alteration, or fraudulent creation of records; and

(vi) may take such measures the RIO deems necessary to protect the integrity of the Respondent’s research facility, Research Records, research personnel including students, and research funds pursuant to section 3.3.

5.8 In exceptional cases, the RIO may, after consulting with the Provost and the Vice-Principal (Research and International Relations), exercise the powers conferred by section 5.7 (iv) and (v) without prior notification to the Respondent.

5.9 The RIO shall provide receipts for all Research Records secured. On written request from a researcher, such person, under supervision by a University official, shall be allowed:

(i) access to their own original Research Records; and

(ii) to copy their own Research Records.

5.10 In the circumstance that certain Research Records are the property or in the possession of an Agency, the Respondent shall cooperate and perform necessary actions to assist the University in obtaining the relevant information in order to facilitate the complete and thorough investigation of an allegation of Research Misconduct.

6. COMPOSITION OF THE COMMITTEE ON RESEARCH MISCONDUCT

6.1 There shall be a Committee on Research Misconduct (the “Committee”) for the investigation of allegations of Research Misconduct referred to it by the RIO.

The Committee shall consist of four (4) members:

(i) one (1) member of the University community with relevant knowledge and expertise appointed by the Vice-Principal (Research and International Relations) in consultation with the Dean;

(ii) one (1) external member who has no current affiliation with the University appointed by the Vice-Principal (Research and International Relations); and

(iii) two (2) members with relevant knowledge and expertise appointed by the Secretary-General from a panel of ten (10) established in accordance with the procedures set out at section 6.9.

6.2 In the event that a Respondent is a graduate student or postdoctoral fellow the Committee shall be comprised of five (5) members with the Dean of Graduate and Postdoctoral Studies, or delegate, serving as a fifth (5th) member.

6.3 In the event that the Respondent or Respondents hold appointment in, or are registered or affiliated with, two or more faculties, the Vice-Principal (Research and International Relations), in consultation with the Deans of the relevant faculties, shall consult and decide who shall serve as their appointee.

6.4 In the event of the recusal of a member of the Committee pursuant to section 6.8, the vacancy shall be filled in accordance with the above provisions.

6.5 The Committee when constituted shall select a chair from amongst its members. The chair shall have a casting vote if there is a tie in voting.

6.6 The RIO, shall take reasonable steps to ensure that the members of the Committee have no bias or conflict of interest with the Respondent, the Complainant, or the case in question.
6.7 The RIO shall determine if the Complainant has a legitimate and direct personal interest in the outcome of the investigation and, if so will notify the Complainant of the membership of the Committee.

6.8 Within three (3) working days of notification of the composition of the Committee, the appointment of any member of the Committee may be challenged for bias or conflict of interest by the Respondent or, where the Complainant has a legitimate and direct personal interest in the outcome of the investigation, the Complainant. The validity of a challenge shall be determined by the RIO, whose determination shall be final.

6.9 There shall be a panel of ten (10) members of the academic staff of acknowledged standing and expertise, appointed to staggered terms of office of three (3) years commencing on September 1st, as follows:

(i) Prior to the March 1st of each year, the Secretary-General shall request from the President of the McGill Association of University Teachers (M.A.U.T.) and the Principal a slate of names, consisting of at least twice the number of vacancies on the panel to be filled that year.

(ii) The slate of recommended names shall be submitted by the President of M.A.U.T. and the Principal to the Secretary-General for consideration by the Senate Nominating Committee. From this slate, the Senate Nominating Committee shall select the persons to recommend to Senate to fill the vacancies. Reasonable efforts shall be made to give due consideration to representation from different disciplines.

7. COMMITTEE PROCEDURES

7.1 The Committee shall conduct its investigation in accordance with the procedures established below.

7.2 The Committee shall determine the facts relevant to and the validity of the allegations brought to its attention by the RIO. To this end, the Committee may:

(i) request the production of Data, documents and other information deemed relevant to its investigation;

(ii) call Witnesses including the Complainant; and

(iii) when the Committee deems it appropriate, appoint one or more internal or external Experts to assist it in the analysis of Research Records and other specific evidence.

7.3 The Respondent has the right to be heard as part of an investigation. The Complainant may request an opportunity to be heard as part of an investigation, and the Committee may grant this request where it believes the Complainant can provide information relevant to the investigation.

7.4 The Committee shall take reasonable steps to ensure that any Expert appointed shall be free of bias or conflict of interest with the Respondent, the Complainant, or the case in question.

7.5 The Committee shall notify the RIO and the Respondent of the names of any Experts appointed to assist it.

7.6 The Respondent may challenge the appointment of any Expert for bias or conflict of interest. The validity of a challenge shall be determined by the RIO whose determination shall be final.

7.7 All hearings of the Committee shall be in camera.

7.8 All hearings and deliberations of the Committee are strictly confidential and the Committee shall instruct all persons appearing before it to treat all evidence and proceedings as confidential.

7.9 The Respondent and Witnesses, including the Complainant if called as a Witness, may be accompanied by an Advisor.
7.10 The Respondent and the RIO may call Witnesses from within or outside the University.

7.11 The Respondent, the Respondent’s Advisor, and the RIO, may put questions to any person who appears before the Committee.

7.12 The Committee may put questions to any person appearing before it.

7.13 The Witnesses and Experts shall address the substance of the allegations before the Committee.

7.14 An Advisor may not appear as a Witness.

7.15 The Respondent and the Respondent’s Advisor shall be entitled to reasonable access to the record of the matter.

7.16 The Committee shall give the Respondent, and any other person invited to appear before it ten (10) calendar days written notice of the date on which they are to appear.

7.17 If the Respondent or such other person fails to attend, the Committee may proceed with the investigation in their absence.

7.18 The Committee shall obtain and review all relevant documentation and perform or cause to be performed necessary analyses of the evidence, including scientific, forensic, statistical, or other analyses as needed.

7.19 The Committee shall maintain an index of all the relevant evidence secured or examined in conducting the investigation, including any evidence that may support or contradict the Committee’s conclusions.

7.20 Any finding of Research Misconduct by the Committee shall be based on a preponderance of the evidence.

7.21 The Office of the Vice-Principal (Research and International Relations) shall provide staff and other assistance to the Committee for conducting and completing the investigation, including maintaining confidentiality, conducting interviews, and analyzing Data or Results.

8. TIMING

8.1 Within ten (10) working days of the appointment of the Committee, the RIO shall notify the Respondent in writing of:
   (i) the name of the research project in question;
   (ii) the name of the Complainant, if known;
   (iii) the specific allegations of Research Misconduct;
   (iv) the name of the Agency involved, if any;
   (v) the names of the members of the Committee.

8.2 The Committee shall conclude its investigation and submit its preliminary report within one-hundred and twenty (120) calendar days of the notification to the Respondent of the opening of an investigation.

8.3 If the Committee, for good cause, is unable to comply with any specified delays, it shall provide written reasons for its inability to do so to the RIO and, if appropriate, the Agency, and request an extension.

8.4 On the completion of the investigation the Committee shall prepare a preliminary written report containing:
   (i) the names of the members of the Committee;
   (ii) the names of any Experts appointed by the Committee;
   (iii) the names of the persons invited to appear before the Committee;
   (iv) the names of the Agencies supporting the research in question;
   (v) the name of the Complainant, if known;
(vi) a statement of the allegation(s) of Research Misconduct;
(vii) a summary of the relevant evidence;
(viii) a summary of the process followed for the investigation;
(ix) the Committee’s analysis of the evidence;
(x) the Committee’s conclusion as to whether or not there has been Research Misconduct;
(xi) the Committee’s recommendation as to the appropriate disposition of the case; and
(xii) any other recommendations that the Committee feels are appropriate in the circumstances of the case.

8.5 The preliminary report of the Committee shall be transmitted to the Respondent who shall have fifteen (15) working days in which to comment on the Committee’s findings and recommendations.

8.6 Within a further fifteen (15) days, the final report of the Committee, together with the Respondent’s comments, if any, shall be submitted by the RIO to the Secretary General, the Provost, and the Respondent.

9. APPEALS

9.1 Within ten (10) working days after receiving the final report of the Committee, the Respondent may make an appeal to the Provost by way of written notice of appeal.

9.2 Grounds for such an appeal shall be limited to failure to follow due process as provided in these regulations, or evidence of bias on the part of the Committee.

9.3 The notice of appeal shall succinctly set out the complete and substantive reasons for the appeal and state on which grounds the appeal is based.

9.4 Upon receipt of a notice of appeal, the Provost [or his or her designate] will review the written report of the Committee and the written statement of appeal and may, but is not required to, meet with any of the Respondent, Complainant, RIO or members of the Committee. Provost will, within thirty (30) days of the submission of the notice of appeal, determine whether or not there are valid grounds for the appeal.

9.5 Should the Provost determine that there are no valid grounds under these Regulations for an appeal then the appeal will be dismissed and the Provost shall determine as set out in Section 10 whether to accept the Committee’s recommendations pursuant to sections 8.4(x), (xi), and (xii).

9.6 Should the Provost find that there are valid grounds for an appeal, then the Provost shall inform the Respondent, RIO, Complainant, and where required, the Agency, that a new hearing before a new Committee shall be initiated.

10. DECISION BY THE PROVOST

10.1 As soon as practicable but no later than forty-five (45) working days after receipt of the report the Provost shall decide whether to accept the Committee’s findings or recommendations.

10.2 The Provost shall not be required to meet with the Complainant, Respondent, RIO or any other person prior or subsequent to making a decision.

10.3 If the Committee’s finding is that the allegation of Research Misconduct is not substantiated, the Provost shall dismiss the allegations and the Provost shall so notify the Respondent.

10.4 If the Committee’s finding is that the allegation of Research Misconduct is founded:
(i) the Provost shall take appropriate action in accordance with the regulations, policies, codes or collective agreement to which the Respondent is subject;
(ii) the Committee’s report can be used as evidence in any disciplinary proceedings instituted by the Provost.
10.5 If the Provost does not accept the recommendations of the Committee, the Provost shall provide substantive written reasons to the RIO, the Chair, and the Respondent.

10.6 The Provost shall communicate his or her decision in writing to the chair of the Committee, the RIO, the Respondent, the Respondent’s Chair and Dean, the Vice Principal (Research and International Relations), the Secretary General, and, where appropriate to:
   (i) other relevant University authorities;
   (ii) the Agency that funded the research, if any; and
   (iii) subject to the laws concerning privacy and protection of personal information, the Complainant if the Provost determines, upon consultation with the RIO, that the Complainant has a legitimate and direct personal interest in the matter and needs to have access to the decision.

10.7 The Provost shall determine whether any government agencies, professional societies, professional licensing boards, editors of journals or other publications, collaborators of the Respondent, or other relevant parties should be notified of the outcome of the investigation.

10.8 After completion of the investigation and all ensuing related actions, the RIO shall prepare a complete file, including the records of the investigation and copies of all documents and other materials furnished to the RIO and the Committee.

10.9 The University Secretariat shall be the official office of record and shall keep the file of the case for at least five years after its completion to permit later reassessment of the case where required by an Agency.

10.10 The Agency, and other authorized personnel who have a legitimate need to know, shall be given access to the file upon written request.

11. GENERAL PROVISIONS

11.1 Respondent’s Admission

11.1.1 If the Respondent admits to the Research Misconduct prior to or during a hearing of the Committee on Research Misconduct, any investigation or hearing shall be discontinued. The RIO shall ask the Respondent to sign a statement attesting to the occurrence and extent of the Research Misconduct, acknowledging that the statement was voluntary and stating that the Respondent was advised of the right to consult an Advisor. The RIO shall submit a report to the Provost, together with the Respondent’s statement. The Provost shall proceed in accordance with 10.4 and 10.6.

11.1.2 A signed admission may be used as a basis for closing an assessment or investigation with the written concurrence of the Agency, if required, to its closure.

11.2 Termination of Respondent’s Relationship with University

11.2.1 The termination of the Respondent’s employment or other relationship with the University or an affiliated institution for any reason, including resignation, before or after an allegation of Research Misconduct has been reported, shall not preclude or terminate an investigation under these Regulations.

11.2.2 If the Respondent refuses to participate in the Research Misconduct investigation process after the termination for any reason, including resignation, of the Respondent’s employment or other relationship with the University or with an affiliated institution, the RIO and the Committee shall use reasonable efforts to reach a conclusion concerning the allegations, noting in the report the Respondent’s failure to cooperate and its effect on the review of all the evidence.

11.3 Requirements for Reporting to the Appropriate Agency
11.3.1 The University’s decision to initiate an investigation shall be reported in writing by the RIO to the Agency, if any, in accordance with the requirements of the Agency.

11.3.2 If the University plans to terminate an investigation for any reason without completing all relevant requirements of the appropriate Agency’s regulation or policies, the RIO shall submit a report of the planned termination to the Agency, including a description of the reasons for the termination.

11.4 Protection of Respondents

11.4.1 All parties involved in the investigation of a research misconduct allegation, including the RIO, the Committee on Research Misconduct and the Provost, shall make diligent efforts, which, in their opinion, are necessary to protect the privacy and reputation of a Respondent, taking into account their duties pursuant this policy.

11.4.2 The University shall make diligent efforts, which, in its opinion, are deemed necessary to protect the privacy and reputation of a Respondent found not to have committed Research Misconduct.

11.5 Protection of Other Members of the Academic Community
The University shall take all reasonable measures to ensure that the academic standing and reputation of third parties such as students, postdoctoral fellows, technicians, research assistants, research associates or members of the academic staff is not prejudiced by any investigation, or by any administrative actions and/or disciplinary proceedings that may be instituted.

11.6 Annual Report
Once per academic year, the RIO shall make a non-nominative report to Senate and the Board of Governors, which report shall include:
(i) the number of Research Misconduct allegations received;
(ii) the number of Research Misconduct allegations investigated;
(iii) a summary of the findings of the investigations conducted;
(iv) a summary of any actions taken pursuant to the investigations.

11.7 Review of Regulations
After a further three years, these Regulations shall be reviewed by a working group comprised of the RIO; the Provost or delegate; the Vice-Principal (Research and International Relations) or delegate; the Dean of Graduate and Postdoctoral Studies or delegate; a representative of the McGill Association of University Teachers; and six persons (namely, one member of the academic staff representing each of the sectors whose research activities are primarily funded by CIHR, NSERC and SSHRC; one member of the graduate student body; one postdoctoral fellow; and one member representing all other research related academic classifications) approved by Senate Nominating Committee.

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