



**Office of the General Counsel**

**Marylin C. Batista, Interim General Counsel**

600 S.E. Third Avenue – 11<sup>th</sup> Floor

Fort Lauderdale, Florida 33301

phone: 754-321-2050 • fax: 754-321-2705

**The School Board of  
Broward County, Florida**

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Interim Superintendent of Schools

November 23, 2021

**SENT VIA U.S. MAIL:**

Christopher Line

Freedom From Religion Foundation

P.O. Box 750

Madison, Wisconsin 53701

**RE: Religious Displays & Content**

Dear Attorney Line,

This letter is in response to your September 21, 2021 and November 5, 2021 correspondence regarding religious content in a school assignment and religious displays in schools respectively.

First, related to your correspondence regarding your client's constitutional concerns related to a book entitled *The Rooster Crows: A Book of American Rhymes and Jingles* assigned as part of the student's virtual class, it appears, based on your letter's characterization of the class as an "online program," this student may be enrolled in Broward Virtual School, a virtual instruction program for K-12 students in Broward County. The School Board of Broward County, Florida ("SBBC") is an approved provider under a franchise agreement with Florida Virtual School ("FLVS") to provide this program as a school choice option to Broward County students. Under this agreement, FLVS retains all rights, title, and interest to all courses, content, and software made available to the district for delivery of the virtual class. Any requests to view FLVS course content may be submitted through its Help Desk at [help@flvs.net](mailto:help@flvs.net).

Additionally, SBBC Policy 6308 prescribes the method(s) by which parents have an opportunity to object to the use of instructional and digital materials being used in a school curriculum or media center. *See* attached copy of SBBC Policy 6308. Under this policy, a parent may request a personal conference with the principal or the principal's designee to discuss the use of the material. If an agreement regarding the objection is not reached in the initial conference, the parent will be given a Request for Reconsideration for the purpose of making a formal complaint to the principal. The school review committee will then review the formal complaint using a specified process delineated in the attached policy. While we have not been able to independently confirm the circumstances surrounding this book and the context in which it may have been assigned to your client's child, in an abundance of caution we will be sending a memorandum to our schools reminding our teachers and staff of our duties and obligations under the First Amendment.

Second, after reviewing the matters raised in your letter dated November 5, 2021, SBBC immediately investigated the claims and took action to remove the religious displays from the classroom and instruct the subject personnel to immediately cease from displaying religious content in the classroom.

In addition to immediately addressing the claims raised in your November 5, 2021 correspondence, SBBC has scheduled a training at its next Principal's Meeting to reinforce to its school administrators and their staff that it is inappropriate, unlawful and a violation of SBBC policy to allow religious displays, give religious assignments, or promote personal religious beliefs in schools.

SBBC remains sensitive to the diverse needs of Broward County students and is committed to educating *all* students and providing an environment free from discrimination of any kind.

Sincerely,



Marylin Batista,  
Interim General Counsel

c: Dr. Valerie Wanza, Chief, Office of School Performance & Accountability  
Dr. Nicole Mancini, Chief Academic Officer

MCB:ewa

## **INSTRUCTIONAL AND DIGITAL CLASSROOM MATERIALS POLICY**

IT IS THE GOAL OF THE SCHOOL BOARD TO PROVIDE STUDENTS WITH THE APPROPRIATE INSTRUCTIONAL AND DIGITAL MATERIALS, AND EQUIPMENT, NECESSARY TO ENSURE THAT EACH STUDENT WILL BE ABLE TO PURSUE A COURSE OF STUDY TO REALIZE FULL ACADEMIC POTENTIAL.

AUTHORITY: F.S.1006.28, 1006.283, 1006.31, 1006.33  
POLICY ADOPTED: 6/22/89

AMENDED RULES ADOPTED: 12/7/93, 4/4/17

### **RULES:**

#### **I. DISTRICT RESPONSIBILITIES**

The School Board will provide adequate textbooks and other instructional and digital materials in accordance with State Law and State Board of Education Rules. Adequate Instructional and Digital Materials, as defined by F.S 1006.28 “means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardback or softback textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature.”

- A. The review, selection, procurement, and implementation of instructional and materials in the core subject areas will follow an adoption cycle in which specific courses within selected subject areas and grade levels are called for adoption on a rotating basis. Adoption is usually for a period of five years. Adopted materials shall be used during the adoption cycle until physically unsuitable, until replaced with newly adopted materials, or until the course is no longer offered.
- B. Each year the district will publish a District Approved Core Instructional Titles document listing the currently approved instructional and digital materials title for each core subject area course and the adoption years for the title. The District Approved Core Instructional Titles List will be posted on district-web sites and provided to school principals.
- C. The Superintendent shall annually certify to the Florida Department of Education that all instructional and digital materials for core courses used by the District are aligned with all applicable state standards.

#### **II. DISTRICT RULES**

The Board authorizes and directs the Superintendent to develop and distribute written procedures dealing with the requisition, purchase, receipt, storage, distribution, use, disposal, conservation, records of management practices and property accountability concerning instructional and digital materials.

**A. REQUISITION, PURCHASE, AND RECIEPT**

Principals are responsible for requisitioning, purchasing, documenting the receipt of instructional and digital materials, and adding these instructional and digital materials to their school inventory. Each year after the School Board approval of instructional and digital materials for the core subjects, principals will be notified by memo with directions for completing these processes using district provided tools for order placement and inventory management.

**B. USE OF INSTRUCTIONAL AND DIGITAL MATERIALS**

1. Principals shall ensure that instructional and digital materials are used to provide instruction to students enrolled at the grade level(s) for which the materials are designed and for effectively communicating to parents the manner in which materials are used to implement the curricular objectives of the school under F.S. 1006.40(5) and 1006.28(3).
2. Annually, the School Principal will inform parents in writing of how parents can access instructional and digital materials. Resources to assist principals will be provided to principals annually via memo and by posting on district web sites.
3. To maximize the use of district adopted instructional and digital materials, each school shall use, as the primary resource for instruction, materials, that appear on the district-approved list.
4. The programs on the district approved list, when possible, will offer a choice of instructional techniques. This is not to preclude the use of other instructional and digital materials as supplementary resources to enhance the selected district-approved core program materials. Each principal shall ensure that appropriate materials are used to provide instruction to students enrolled at the grade level for which the materials are designed.
5. All non-state adopted instructional and digital materials must be evaluated by the school staff and approved by the Office of Academics, prior to purchase.
6. The district will provide, upon request for inspection, sample copies of all instructional and digital materials that have been purchased by the district.

**III. PROTEST TO USE OF INSTRUCTIONAL AND DIGITAL MATERIALS**

- A. The parent, as defined by Florida Statutes, of a student enrolled in a Broward public school or any adult student who objects to the use of specific instructional or material(s) being used in a school curriculum or media center may request a personal conference with the principal or the principal's designee to discuss the use of the material.

- B. If an agreement regarding the Objection is not reached in the initial conference, the parent or adult student will be given a Request for Reconsideration form for the purpose of making a formal complaint to the principal. The individual will give the specific reasons for his/her Objections and the authority on which the Objections are based.
- C. The school review committee will review the formal complaint. The school review committee will include the principal, an assistant principal, the instructional staff member responsible for the use of the questioned material and his/her grade group chair, department head, or team leader.
- D. The school committee will review the Objection using the following process:
  - 1. Acquire adequate copies of the protested material so that all members of the school committee can read, view or listen to the material in its entirety within 15 working days.
  - 2. Determine the extent to which the challenged material fits the instructional and digital materials selection policy and supports the curriculum.
  - 3. Judge the material for its strength and value as whole, not a part.
  - 4. Prepare a written report and recommendation regarding the use of the material.
  - 5. The principal will then inform the parent and the Director overseeing instructional and digital materials of the committee recommendation.
  - 6. If the parent or adult student disagrees with the recommendation of the school review committee, the parent or adult student may request a review by a District committee that will include, but not be limited to, appropriate District staff, including the Director overseeing instructional and digital materials, appropriate school staff, and one lay person to conduct the review.
  - 7. The Director overseeing instructional and digital materials will prepare a written response to the Objection as recommended by the District Review Committee. The recommendation of the District Review Committee will be final.

#### **IV. DISPOSAL OF INSTRUCTIONAL AND DIGITAL MATERIALS**

- A. On an annual basis, the Procurement and Warehouse Services will provide schools with specific instructions on how unserviceable, surplus, or instructional and digital materials no longer on the District Approved Core Titles List are to be prepared, stored, and removed from schools.

- B. The Procurement and Warehouse Services Department shall arrange for the disposal of instructional and digital materials that have become unserviceable, surplus or no longer on ~~state contract~~ District Approved List of Core Titles as follows:
1. Giving or lending materials to other public education programs, to teachers, to students or any charitable organization, governmental agency, home education students, private schools, or state.
  2. Selling the materials to used book dealers, recycling plants, pulp mills or other persons, firms or corporations as are most economically advantageous to the district school board.
  3. All monies received for sale, exchange, or other disposition shall be deposited and added to the district appropriation for instructional and digital materials.
  4. The principal has the responsibility for ensuring the surplus process is adhered to relating to the disposal of instructional and digital materials.

**V. MANAGEMENT, RECORDS, CONSERVATION, PROPERTY ACCOUNTABILITY**

- A. The principal has the responsibility for maintaining accurate records related to the instructional and digital materials used at the school site, including accounting inventory and evaluations of non-district evaluated materials. The district will provide software tools for textbook inventory management.
- B. Each school principal will designate a staff member to serve as the Textbook Coordinator. The Textbook Coordinator will perform duties assigned to them by the principal regarding requisition, purchase, receipt, storage, records, and reports of instructional and digital materials.
- C. Students shall be provided with the opportunity to receive the major tool of instruction in the core courses of mathematics, language arts, social studies, science, reading, and literature in whichever format is currently available and best serves the needs of the student. The format is not limited to hardbound or softbound textbooks and can include materials in varying digital formats s. 1006.28 (1).
- D. Instructional and digital materials distributed to students, as provided by Florida Statutes, shall be merely loaned to the students while they pursue the courses of study to which such materials relate. The materials shall be returned at the direction of the principal or teacher in charge.
- E. Students shall be held accountable for school and district technology usage guidelines as outlined in school board policy 5306.
- F. Any individual having the responsibility for a student or students to whom or for whom instructional and digital materials have been issued shall be held accountable

for these materials in accordance with the laws set forth in Florida Statutes, and such policies, rules and regulations as the School Board may adopt.

G. Responsibility of teachers and principals:

1. Teachers and principals shall ascertain by inspection, and insure through every available agency, that all instructional and digital materials issued to the school by the Superintendent are cared for properly, whether such materials are in the hands of students or in storage.
2. Teachers and principals shall see that all reports are completed and submitted to the proper authority on the forms prescribed by the Commissioner of Education and supplied through the office of the Superintendent.
3. Teachers and principals shall prepare and transmit to the proper authority such records and reports as may be required by the Commissioner of Education and such supplementary records and reports as the Superintendent may direct.
4. To comply with the provisions adopted by the Board with respect to collections made for damaged or lost instructional and digital materials:
  - a. Students shall not be assessed for the use of instructional and digital materials except when there is evidence of abnormal wear and tear (unnecessary damage), destruction or loss. Failure to pay obligation will be entered in student database.
  - b. If instructional and digital materials issued to a teacher are lost (e.g., either by removal from a classroom without the teacher's knowledge, or by children who borrow them and then move away without returning the materials), a written record shall be made accounting for the loss. In such cases, a teacher shall not be held responsible for the loss of such materials unless the teacher obviously has been negligent or a pattern of negligence exists.
  - c. When instructional and digital materials cannot be accounted for:
    - (1) The titles and the names and last known addresses of the students to whom the lost instructional and digital materials were issued shall be submitted to the proper authority.
    - (2) A report must be filed as to the efforts made to collect or account for each item.
    - (3) A special report shall be made for lost instructional and digital materials that have not been issued to students. When the reason or cause for such loss is known, this must be included in the report.

- (4) In order to comply with the provisions of Florida Statutes or give reasons in writing to the Superintendent (designee) for noncompliance, principals must account for all instructional and digital materials delivered into their custody by returning all such materials or by providing explanation for each material not returned, in the same manner as discrepancies are reported. School principals will provide the district with an annual inventory report to include an accurate accounting of the number of titles available and a report of the lost or damaged books.
- (5) It shall be the duty and responsibility of each principal to collect from each pupil or his/her parent, the purchase price of any instructional and digital material the pupil has lost, destroyed, or unnecessarily damaged, to report and transmit such amounts so collected to the Superintendent's (designee) s.1006.28. to be deposited in the School Budget for replacement of instructional and digital materials.
- (6) In no case shall a principal or a teacher be held financially accountable for the loss of instructional and digital materials if appropriate accounting for all losses were made in accordance with the foregoing provisions

## **VI. EVALUATION AND SELECTION**

The evaluation and selection of instructional and digital materials shall be performed in a manner consistent with the sections 1006.31 and 1006.342(b) Florida Statute. The procedures outlined in this policy shall be used to evaluate and recommend instructional and digital materials that are to be considered for District adoption, subject to administrative review as stated in this policy. These processes will be used for both a District adoption of instructional and digital materials from the Florida DOE Adopted Instructional Materials list and for a district instructional and digital materials adoption conducted independently of the Florida DOE process.

### **A. SELECTION AND ADOPTION OF INSTRUCTIONAL AND DIGITAL MATERIALS**

1. Publishers will be asked to submit instructional and digital materials for review by the district.
2. District administrative staff may provide additional instructional and digital materials titles and appropriate open education resources for review. Open Educational Resources (OER) are free, easily accessible, openly licensed documents and media that are useful for teaching, learning, and assessing as well as for research purposes.

### **B. ROLES AND RESPONSIBILITIES OF PUBLISHERS IN ADOPTION**



1. Publishers will be given written notification of any special conditions for participation in the District's adoption process as determined by Office of Academics' staff.
2. Generally, publisher presentations in schools will not be part of the evaluation/ adoption process. However, if the Chief Academic Officer or his/her designee determines that publisher presentations are required during any part of the evaluation/adoption process, specific guidelines as issued by the Instructional and Digital Materials office and approval by the Superintendent must be followed.
  - a. The District prohibits the publishers, manufacturers, or representatives of instructional and digital materials submitted for District adoption from communicating directly with voting members during the process of the review and during the time teachers are reviewing materials. All contact must be made through the District instructional and digital materials office. Publishers should not be denied answers to questions and should be advised of the procedures and all related information. If a committee elects to have publisher presentations, every publisher submitting materials for consideration in that specific subject area will be provided an equal opportunity to present in the same amount of time provided to any and all other publishers
  - b. Agents or publisher's representatives will not contact the Pre-Adoption Evaluation Committee, the District Adoption Committee, or School/District Personnel except for the appropriate designee of the instructional and digital materials office and the designated curriculum supervisor for the purpose of discussing matters relating to instructional and digital materials being considered for ~~pre-adoption or~~ district adoption.
  - c. Publishers and their representatives who fail to adhere to county policies and/or procedures will be notified of their infractions by the Superintendent of Schools and this could result in the withdrawal of their materials from consideration.
3. An adoption committee will review instructional and digital materials proposed for adoption by the district and make recommendations to the Office of Academics on which titles or resources are best suited for Broward County Public Schools.
4. The Board shall assess and collect fees from publishers participating in the instructional and digital materials approval process. The amount of fees assessed and collected shall be posted on the District's website and reported to the Florida Department of Education. The fees shall not exceed the actual cost of the review process, and the fees shall not exceed \$3,500 per submission by a publisher. Any fees collected for this process shall be allocated for the support of the review process and maintained in a separate line item for auditing purposes. The fees

shall be used to cover the actual cost of substitute teachers for each workday that a member of the District's instructional staff is absent from his/her assigned duties for the purpose of rendering service as an instructional and digital materials reviewer. In addition, each reviewer may be paid a stipend and is entitled to reimbursement for travel expenses, and per diem in accordance with F.S. 112.061 for actual service in meetings.

### **C. ADOPTION REVIEW STANDARDS**

1. The standards used to determine the propriety of the materials shall include: age appropriateness, educational purpose to be served by the materials, degree to which the materials encompass the State and District school board performance standards provided for in Fla. Stat. § 1001.03(1), the inclusion of instructional objectives contained within the curriculum frameworks by the State Board of Education, the degree to which the materials would be supplemented and explained by mature classroom instruction, and a consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students of the District as stated in Policy 6307. No book or materials that contain hard-core pornography or are otherwise prohibited by Fla. Stat. §§ 847.012 and/or 847.0133 shall be recommended for use in District schools.

### **D. ADOPTION COMMITTEE MEMBERSHIP**

1. The District will create instructional and digital materials adoption committees based on subjects being reviewed annually. Committees must have a minimum of ~~three~~ five members, but may have as many additional members as the Superintendent or designee appoints. A member of a State adoption committee may not serve on the District committee. Teacher members must be certified in and teaching in the subject area being reviewed.
2. District curricular staff members who have taught in the subject area being reviewed may serve as facilitators for the District adoption committees to provide subject matter expertise and communicate the district's curricular vision and goals to committee members. They may assist in the review process and the correlation of publisher submissions with course and subject instructional objectives.
3. Representatives from the Exceptional Student Education Department, the Diversity Department, Gifted and Talented Services, the Instructional Technology Department, Information Technology or other appropriate District departments may also serve as advisors to the District adoption committees. These representatives will review the materials for their strengths in meeting the needs of sub-groups of students and in their compatibility with the Broward County Public Schools standard technology and network. Teacher and curriculum specialists will be appointed from nominations submitted by principals and/or District curricular staff

4. Parents will be notified when the textbook annual review begins through various district resources. Parents will be asked to review the proposed instructional and digital materials. Parents will be appointed from nominations submitted by parent advisory groups or may apply directly to serve. Parent applications will be posted on the Broward County Public Schools websites. Applications will be reviewed by the Office of Academics and will notify selected parents.
5. The membership of the Adoption committee should reflect the broad racial, ethnic, socioeconomic and cultural diversity of the District including a balanced representation from the various geographic regions and be representative of students of diverse learning styles and ability levels. School representation will be rotated with each adoption.

**E. ADOPTION COMMITTEE DUTIES AND RESPONSIBILITIES**

The following are the duties of the adoption committee members:

1. To adhere to the processes defined by the district for reviewing and evaluating the instructional and digital materials.
2. Each member of any District instructional and digital materials adoption committee must sign an affidavit declaring no conflict of interest before transacting the business of the committee.
3. Members of any District instructional and digital materials adoption committee will receive instructions that they are prohibited from accepting gifts, money, emoluments, or other valuables which shall directly or indirectly influence the adoption or purchase of any instructional and digital materials. These prohibitions apply to committee members. Committee members shall conduct themselves in the best interest of students in support of the district's academic plan.
4. Committee members are prohibited from discussing matters relating to the instructional and digital materials submitted for adoption with agents or representatives of a publisher either directly or indirectly except during committee meetings where presentations are made. Publishers are expected to abide by the Notification to Publishers or Manufacturers of Instructional Materials for guidelines governing District adoptions.

**VII. DISTRICT SELECTION PROCEDURES**

- A. All committee recommendations must be reviewed by appropriate District administrative staff for review of the appropriateness of the materials ensuring that they meet District curricular objectives. The Chief Academic Officer will incorporate the review finding of the individual committees into an instructional and digital materials plan. The instructional and digital materials plan will be forwarded to the Superintendent for review

and approval based on findings of the appropriateness of the materials. If approved by the Superintendent, the instructional material plan is submitted to the School Board for final approval and adoption.

- B. Prior to approving the annual instructional and digital materials plan, the School Board will hold a noticed Special School Board Meeting to receive public comment upon the recommended instructional and digital materials. The notice of the meeting will be made at least 20 days prior to the Special School Board Meeting and the notice will contain the directions for how the student editions of the recommended instructional and digital materials can be accessed and viewed online by the public.
- C. Subsequent to the date of the Special School Board hearing to receive public comment on the proposed instructional and digital materials, the School Board shall conduct a separate school board meeting to approve the annual instructional and digital materials plan. The notice published for this meeting shall inform the public of the specific instructional and digital materials being reviewed and the manner in which the instructional and digital materials can be accessed for public review.
- D. After the approval of the annual instructional and digital materials plan, parents, as defined by Florida Statute, will have up to 30 calendar days to file an Objection of the Adoption of Instructional and Digital Materials with the department overseeing instructional and digital materials. The Petition for Protest form and the directions for filing a petition will be posted on the District website. The School Board conducts at least one (1) public hearing on all timely received petitions. The hearing shall be conducted within thirty (30) calendar days after the School Board Meeting approving the instructional and digital materials plan. Written notification of the date and time of the public hearing must be provided by the District School Board at least seven (7) calendar days before the public hearing. The District School Board's decision upon the Objection shall be final and is not subject to further petition or review.
- E. Any request from a school center to use textbooks or other related instructional and digital materials as part of the curriculum and which are not District adopted, per se, must be approved by the Superintendent or designee based on the appropriateness of the materials to meet District curricular objectives. Any request for funding of such materials must be approved by the Superintendent or designee.

#### **VIII. INDEPENDENT DISTRICT ADOPTION PROCESSES**

- A. Should the Superintendent or his/her designee deem a district-adoption independent of the Florida DOE necessary, the following processes will be used.
- B. The District shall advertise in a local newspaper of general circulation four (4) weeks preceding the date on which the bids shall be received.
  - 1. The advertisement shall state that each bidder shall furnish electronic sample copies of all instructional and digital materials submitted, at a time designated

by the District, which copies shall be identical to the copies furnished to the District and Superintendent.

2. The advertisement shall state that a contract covering the adoption of the instructional and digital materials shall be for a definite term.
3. The advertisement shall fix the time within which the required contract must be executed and shall state that the District reserves the right to reject any or all bids.
4. The advertisement shall give the publisher information on the specifications for format, content, presentation, and learning as required by the District and by Florida Statute.
5. Sealed bids or proposals to be submitted to the District will be received from publishers or manufacturers for the furnishing of instructional and digital materials proposed to be adopted as listed in the advertisement beginning the date after the advertisement is placed.
6. The bids submitted shall be for furnishing the designated instructional and digital materials in accordance with specifications of the District. The bid shall state the lowest wholesale price at which the materials will be furnished, at the time the adoption period provided in the contract begins.
7. District Administrators may submit appropriate Open Education Resources for review by committee. Open Educational Resources (OER) are freely accessible, openly licensed documents and media that are useful for teaching, learning, and assessing as well as for research purposes.
8. Instructional and digital materials submitted by publishers will be reviewed by an adoption committee using the processes and procedures previously specified in this policy.
9. The Board shall assess and collect fees from publishers participating in the instructional and digital materials approval process. The amount of fees assessed and collected shall be posted on the District's website and reported to the Florida Department of Education. The fees shall not exceed the actual cost of the review process, and the fees shall not exceed \$3,500 per submission by a publisher. Any fees collected for this process shall be allocated for the support of the review process and maintained in a separate line item for auditing purposes. The fees shall be used to cover the actual cost of substitute teachers for each workday that a member of the District's instructional staff is absent from his/her assigned duties for the purpose of rendering service as an instructional and digital materials reviewer. In addition, each reviewer may be paid a stipend and is entitled to reimbursement for travel expenses, and per diem in accordance with F.S. 112.061 for actual service in meetings.

**DEFINITIONS****District Adoption**

In a district adoption of Florida adopted materials, the District review will focus on submitted instructional and digital materials with a goal of selecting the most suitable materials for District adoption. Each district school board must purchase current instructional materials to provide each student in kindergarten through grade 12 with a major tool of instruction in core courses of the subject areas of mathematics, language arts, science, social studies, reading, and literature.

**Independent District Adoption**

If a district school board chooses to implement its own instructional materials program, the school board shall adopt rules implementing the district's instructional materials program which must include its processes, criteria, and requirements for the following:

1. Selection of reviewers, one or more of whom must be parents with children in public schools.
2. Review of instructional materials.
3. Selection of instructional materials, including a thorough review of curriculum content.
4. Reviewer recommendations.
5. District school board adoption.
6. Purchase of instructional materials.

**Open Educational Resources**

Open Educational Resources (OER) are free, easily accessible, openly licensed documents and media that are useful for teaching, learning, and assessing as well as for research purposes.

AUTHORITY: F.S.1006.28 (1), (2), (3); 1006.283;  
RULES ADOPTED: 6/22/89

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