2 July 2019

Shri Sunil Arora, Chief Election Commissioner
Shri Ashok Lavasa, Election Commissioner
Shri Sushil Chandra, Election Commissioner
Election Commission of India
Nirvachan Sadan
New Delhi
India

Sirs,

Serious Irregularities in the Conduct of General Elections, 2019

1. We are a group of former civil servants that takes up, from time to time, matters of exceptional national interest, seeking to remind our cherished democratic institutions of their responsibility to uphold the lofty ideals of the Constitution. We write to you today to draw your attention to the several very troubling and still unexplained issues pertaining to the conduct of the General Elections, 2019, by the Election Commission of India (ECI).

2. From time to time, the media has reported on various irregularities in the conduct of the 2019 General Elections. While we accept that not every media report is accurate or true, the ECI's non-rebuttal of an untrue or inaccurate story leaves the public to draw its own conclusion: that the ECI has no valid explanation to offer. The mere dismissal of the allegations as baseless, without an explanation as to why they should be so considered, is unsatisfactory. As the custodian of the most precious commodity in a democracy – the people's mandate - it is your duty to be transparent, and accountable to the Constitution and the people of India.

3. The 2019 General Elections appear to have been one of the least free and fair elections that the country has had in the past three decades or so. In the past, despite the efforts of criminal elements, musclemen, and unscrupulous politicians, the persons who graced the ECI did their best to ensure that elections were conducted as freely and fairly as possible. In these General Elections, however, an impression has gathered ground that our democratic process is being subverted and undermined by the very constitutional authority empowered to safeguard its sanctity. It was rare in the past for any serious doubts to be raised about the impartiality, integrity and competence of the ECI. Unfortunately, the same cannot be said about the present ECI and the way it has conducted the General Elections of 2019. So blatant have been the acts of omission and commission by the ECI that even former Elections Commissioners and CECs have been compelled, albeit reluctantly, to question the decisions of their successors in office.

4. The bias of the Election Commission towards one particular party became evident from the date of announcement of the elections. The announcements of the 2004, 2009 and 2014 Lok Sabha Elections were made by the ECI on February 29, March 1 and March 5 respectively of those years. The announcements of State Assembly elections, due in April-May, also used to be made between March 1 and March 5. But this convention was not followed for the 2019 Lok Sabha Election and the announcement was delayed, without any explanation or justification, till March 10, 2019. This led to the reasonable doubt that the ECI deliberately delayed the announcement to enable Prime Minister Narendra Modi to complete the inauguration blitz of a slew of projects (157 of them) that he had scheduled between February 8 and March 9. Instead of the government adjusting the dates of its inaugural functions to the ECI's (well known) schedule for announcement of elections, we have here a case of the ECI adjusting itself to the government's schedule, thereby raising questions about its independence and impartiality.

5. The election schedule raised many eyebrows. It was the longest election in the country's history, and gave room for suspicion that it had openly and unabashedly favoured the ruling party at the Centre. There was no apparent rationale to the number of polling days fixed for different States. In States like Tamil Nadu (39 seats), Kerala (20), Andhra Pradesh (25) and Telangana (17) where the BJP is weak and had no likelihood of winning, the polling was held in a single phase. In States with comparable or fewer Lok Sabha constituencies such as Karnataka (28), Madhya Pradesh (29), Rajasthan (25) and Odisha (21), where the BJP faced tough competition or was likely to gain ground, the polling was scheduled in multiple phases, possibly to give the Prime Minister more time for campaigning. The polling for the Varanasi constituency from where the Prime Minister contested was conveniently slotted in the last phase of polling on May 19, 2019.

6. Several reports were published in the media of large scale voter exclusion[1], with some reports suggesting that voters from certain minority groups were the most affected. While we do not believe that these charges were necessarily true, it was incumbent upon the ECI to investigate them and respond promptly. Many voters who had exercised their mandates in earlier elections found their names missing. The ECI's failure to effectively answer these allegations further tarnished its reputation.

7. The blatant flouting of the Model Code of Conduct (MCC) by many candidates, in particular the making of hate speeches and communally loaded statements by candidates, primarily of the BJP, was, initially, blithely ignored by the ECI on the plea that it had no powers to take action. For example, Mr. Amit Shah was reported to have said that illegal immigrants would be thrown into the Bay of Bengal[2], a statement which clearly invited action under the Indian Penal Code (IPC) and the Representation of People Act. Only when pulled up by the Supreme Court did the ECI suddenly discover its powers, even then exercising them selectively on the small fry and ignoring the more egregious cases of violation by the Prime Minister and the BJP Party President. Even the strongest action that it took, viz. the curtailing of the campaigning in the last phase in West Bengal, was done in a manner so that the PM's campaign could be completed

before the ban came into effect. Its partisanship confirmed, the approach of the ECI further emboldened the Prime Minister, Mr. Amit Shah and other party representatives.

8. The Prime Minister's blatant misuse of the Pulwama and Balakot issues to whip up nationalistic, or more correctly, jingoistic fervour and channel it in favour of the BJP was another shocking violation of the MCC. The Election Commission strangely did not even issue a show cause notice to the PM for these repeated violations though the incidents were reported by the State Election Commissioners and there was a divide within the ECI itself on whether or not there was a breach of the MCC. The ECI ignored the difference of opinion and merely dismissed the incidents. The dissenting opinions of Commissioner Ashok Lavasa should have been published as is done in the case of the judiciary. In our opinion, Article 19 of the Constitution and the citizens' right to information have been violated.

9. The bias of the ECI was glaringly apparent in the case relating to Mr. Mohammed Mohsin, the IAS officer who was sent to Odisha as a special election observer. Mr. Mohsin was suspended for checking the PM's helicopter for any non-permissible cargo. According to the ECI, the official had not acted in conformity with the ECI's instructions of not checking SPG protected persons. Constitutional obligations were trumped by administrative instructions. It was pointed out, even at that time, that similar checks had been carried out on the helicopters of the Odisha CM Mr. Naveen Patnaik and the then Petroleum Minister Mr. Dharmendra Pradhan, with no objections from the dignitaries concerned. However, the ECI could not and did not explain its double standards.

10. A serious matter in which the ECI exonerated the government of wrongdoing was the misuse of official machinery. The Niti Aayog had officially written to the various UTs and some districts in the country to provide local information about the area since the PM was likely to visit these places. This was done so that the information could be used in the Prime Minister's election campaigns. Even though this was a blatant violation of the MCC, the EC merely dismissed the complaint. Why did the ECI treat the MCC in such a cavalier fashion and apply it in so obviously discriminatory a manner? Action was also called for under the Representation of People Act.

11. The refusal of the ECI to take note of the many media violations - particularly by the ruling party - caused a great deal of concern to the public. The most blatant violation of this was the opening of a new channel called Namo TV which continuously telecast speeches and events about the Prime Minister Narendra Modi. Namo TV had, strangely, neither obtained permission from the Information and Broadcasting Ministry to go on air nor had it complied with the many regulations necessary to start a new channel. Even though the ECI ordered the channel to be closed, Namo TV continued to telecast almost until the end of the elections. Procrastination, silence and inaction characterized ECI's responses in so many matters. There were other violations as well: a programme anchored by the actor Akshay Kumar centred on the PM's unofficial persona, which was telecast by several TV channels while the elections were underway, giving the PM's campaign an undue edge over those of others; the

media attention given to the PM's meditation in a cave in Kedarnath, even while the last phase of the polling was going on was another such instance. As far as we are aware, none of these expenses have been added to the PM's electoral expenses.

12. In terms of transparency of electoral funding, this election was the most opaque ever, both because of the widespread use of electoral bonds, and also because of the enormous amounts of cash, gold and drugs, amounting to Rs 3456 crores, which were seized during the polls. While the ECI acted strongly in the matter of the seizure of cash in Tamilnadu, cancelling the polling in one Parliamentary constituency, it has not acted as strongly in other cases. Though Rs 1.8 crore was recovered from the Arunachal CM's convoy, there is no information of what action was taken by the ECI on this clear violation of rule and norm. Where, one might ask, was the level playing field?

13. The use of Electronic Voting Machines (EVMs) for polling has been a subject of much controversy. Despite the ECI's repeated statements that the EVMs used in India are tamper-proof, doubts on that score have persisted, particularly because the ECI has not been transparent in its responses to various reports. There were widespread reports of a mismatch in the number of EVMs manufactured by the two authorized PSUs and those in the inventory of the ECI. According to one media report[3], responses to an RTI query have revealed that as many as 20 lakh EVMs that the manufacturers affirm having delivered to the ECI were apparently not in the ECI's possession. To queries about this huge discrepancy, the ECI's response[4] has been a bland denial, leaving no-one any the wiser. Complete facts and figures need to be revealed for public scrutiny.

14. People's confidence in the EVMs would have been greater if the ECI had been more cooperative about using the Voter Verifiable Paper Audit Trail (VVPATs) in a manner that would confirm the results of the EVMs, but from the beginning the ECI was extremely reluctant to match the number of votes recorded in EVMs with the votes in the VVPAT machines on any significant scale, despite representations by different groups, including political parties. The ECI stated that tallying the votes of 50% of the VVPATs with the EVMs would take about 6 days (even though it is a well-known fact that in the past 100% of paper ballots were counted in 12 – 18 hours). The ECI insisted that the purpose of verification would be served if such tallying was done in only one EVM per Assembly constituency. On the insistence of the Supreme Court, the ECI agreed to increase this number to 5 EVMs per constituency The ECI's refusal to listen to, and accept, globally adopted statistical tools to determine the number of VVPATs that need to be counted to rule out any errors, or to lay down the steps that would have to be taken in case of a mismatch between the EVM and VVPAT counts, has left a cloud of confusion in the mind of the electorate.[5]

15. Between the last day of polling and Counting Day, there were several reports of unexplained movement of EVMs[6] to and from the strong rooms in various states. These movements have not been satisfactorily explained, and the ECI's bland denial[7], without explaining exactly which EVMs were being transported, and why, does not inspire trust or confidence.

16. The request by a large number of parties to tally the EVM and VVPAT votes at the beginning of Counting Day was also turned down by the ECI without any specific reason. This was a simple request and would have satisfied many of the political parties. In fact, at every stage the ECI has refused to accommodate any request that could bolster the confidence of the electorate that the elections were conducted freely and fairly. Matching of five VVPATs as mandated by the SC was relegated to the end of the counting process – so that few would remain to watch the outcome. The result of this exercise is not quite clear from the media reports. It appears, though, that the mismatch between the number of votes cast, the numbers recorded by the EVMs, and as reported in the VVPATs[8] has been quite numerous – some media reports put the number at affecting more than 370 Lok Sabha Constituencies.[9]

17. Reports about the mismatch in EVM, VVPAT and votes cast numbers are being explained away as being insignificant, since in almost all the cases, the victory margin (almost invariably of candidates put up by the BJP or its allies) is far greater than the discrepancy[10]. During the paper ballot days, discrepancies in counting used to be ignored if they were too small to make a difference to the final result. But that logic does not apply to VVPAT-based audit of EVMs. Here, even a small discrepancy between the EVM count and the VVPAT in the chosen sample of EVMs, and a small discrepancy between the EVM count and the votes polled in a polling booth as reported by the Presiding Officer in Form 17C at the end of the poling day are very serious matters and are symptomatic of a greater malaise. While the Returning Officers and even Counting Agents may be taking it lightly due to deficiency in their understanding of an appropriate statistical sample, surely the ECI knows better. Accepting this argument is akin to an accountant saying that in a balance sheet of crores, an un-reconciled few hundred rupees do not matter, and the accounts should be accepted. When we are using electronic systems, even a discrepancy of one vote throws the entire election into doubt.

18. A well-known academic recently wrote,"….we can only raise questions on the basis of scattered information available to us. It is not our job as citizens to offer proof of wrong-doing of the highest institutions of the land, when these institutions function in so opaque a manner. It is our job to raise questions about visible anomalies. It is the responsibility of the Election Commission to explain the anomalies."[11]

19. Our Election Commission used to be the envy of the entire world, including developed countries, for its ability to conduct free and fair elections despite the huge logistical challenges and the hundreds of millions of voters. It is indeed, saddening to witness the process of the demise of that legacy. If it continues, it is bound to strike at the very heart of that founding document the people of India proudly gave themselves – the Constitution of India – and the democratic ethos that is the very basis of the Indian Republic.

20. Viewed in totality, there is no doubt that the mandate of 2019 has been thrown into serious doubt. The concerns raised are too central to the well-being of our democracy for the ECI to leave unexplained. In the interests of ensuring that this never happens again, the ECI needs to pro-actively issue public clarifications in respect of each of these reported irregularities, and put in place

steps to prevent such incidents from occurring in future. This is essential to restore the people's faith in our electoral process.

Yours sincerely,

1.	S.P. Ambrose	IAS (Retd.)	Former Additional Secretary, Ministry of Shipping & Transport, GoI
2.	Mohinderpal Aulakh	IPS (Retd.)	Former Director General of Police (Jails), Govt. of Punjab
3.	G. Balachandhran	IAS (Retd.)	Former Additional Chief Secretary, Govt. of West Bengal
4.	Vappala Balachandran	IPS (Retd.)	Former Special Secretary, Cabinet Secretariat, GoI
5.	Gopalan Balagopal	IAS (Retd.)	Former Special Secretary, Govt. of West Bengal
6.	Chandrashekhar Balakrishnan	IAS (Retd.)	Former Secretary, Coal, GoI
7.	Sharad Behar	IAS (Retd.)	Former Chief Secretary, Govt. of Madhya Pradesh
8.	Madhu Bhaduri	IFS (Retd.)	Former Ambassador to Portugal
9.	Pradip Bhattacharya	IAS (Retd.)	Former Additional Chief Secretary, Development & Planning and Administrative Training Institute, Govt. of West Bengal
10.	Meeran C Borwankar	IPS (Retd.)	Former DGP, Bureau of Police Research and Development, GoI
11.	Sundar Burra	IAS (Retd.)	Former Secretary, Govt. of Maharashtra
12.	Kalyani Chaudhuri	IAS (Retd.)	Former Additional Chief Secretary, Govt. of West Bengal
13.	Javid Chowdhury	IAS (Retd.)	Former Health Secretary, GoI
14.	Surjit K. Das	IAS (Retd.)	Former Chief Secretary, Government of Uttarakhand
15.	P.R. Dasgupta	IAS (Retd.)	Former Chairman, Food Corporation of India, GoI
16.	Keshav Desiraju	IAS (Retd)	Former Health Secretary, GoI
17.	M.G. Devasahayam	IAS (Retd.)	Former Secretary, Govt. of Haryana
18.	K.P. Fabian	IFS (Retd.)	Former Ambassador to Italy
19.	Arif Ghauri	IRS (Retd.)	Former Governance Adviser, DFID, Govt. of the United Kingdom (on deputation)
20.	Gourisankar Ghosh	IAS (Retd.)	Former Mission Director, National Drinking Water Mission, GoI

21.	S.K. Guha	IAS (Retd.)	Former Joint Secretary, Department of Women & Child Development, GoI
22.	Meena Gupta	IAS (Retd.)	Former Secretary, Ministry of Environment & Forests, GoI
23.	Wajahat Habibullah	IAS (Retd.)	Former Secretary, GoI and Chief Information Commissioner
24.	Sajjad Hassan	IAS (Retd.)	Former Commissioner (Planning), Govt. of Manipur
25.	Jagdish Joshi	IAS (Retd.)	Former Additional Chief Secretary (Planning), Govt. of Maharashtra
26.	Kamal Jaswal	IAS (Retd.)	Former Secretary, Department of Information Technology, GoI
27.	Rahul Khullar	IAS (Retd.)	Former Chairman, Telecom Regulatory Authority of India
28.	Ajai Kumar	Indian Forest Service (Retd.)	Former Director, Ministry of Agriculture, GoI
29.	Arun Kumar	IAS (Retd).	Former Chairman, National Pharmaceutical Pricing Authority, GoI
30.	Sudhir Kumar	IAS (Retd.)	Former Member, Central Administrative Tribunal
31.	P.K. Lahiri	IAS (Retd.)	Former Executive Director, Asian Development Bank
32.	Subodh Lal	IPoS (Retd.)	Former Deputy Director General, Ministry of Communications, GoI
33.	P.M.S. Malik	IFS (Retd.)	Former Ambassador to Myanmar & Special Secretary, MEA, GoI
34.	Harsh Mander	IAS (Retd.)	Govt. of Madhya Pradesh
35.	Lalit Mathur	IAS (Retd.)	Former Director General, National Institute of Rural Development, GoI
36.	Aditi Mehta	IAS (Retd.)	Former Additional Chief Secretary, Govt. of Rajasthan
37.	Sonalini Mirchandani	IFS (Resigned)	GoI
38.	Deb Mukharji	IFS (Retd.)	Former High Commissioner to Bangladesh and former Ambassador to Nepal
39.	Shiv Shankar Mukherjee	IFS (Retd.)	Former High Commissioner to the United Kingdom

40. Sobha Nambisan	IAS (Retd.)	Former Principal Secretary (Planning), Govt. of Karnataka
41. Amitabha Pande	IAS (Retd.)	Former Secretary, Inter-State Council, GoI
42. Alok Perti	IAS (Retd.)	Former Secretary, Ministry of Coal, GoI
43. T.R.Raghunandan	IAS (Retd.)	Former Joint Secretary, Ministry of Panchayati Raj, GoI
44. N.K. Raghupathy	IAS (Retd.)	Former Chairman, Staff Selection Commission, GoI
45. J.P. Rai	IAS (Retd.)	Former Director General, National Skills Development Agency, GoI
46. V.P. Raja	IAS (Retd.)	Former Chairman, Maharashtra Electricity Regulatory Commission
47. C. Babu Rajeev	IAS (Retd.)	Former Secretary, GoI
48. M.Y. Rao	IAS (Retd.)	Former Chairman and MD of Grid Corporation of Orissa
49. Satwant Reddy	IAS (Retd.)	Former Secretary, Chemicals and Petrochemicals, GoI
50. S.S.Rizvi	IAS (Retd.)	Former Joint Secretary, Ministry of Environment and Forests, GoI
51. Aruna Roy	IAS (Resigned)	
52. Deepak Sanan	IAS (Retd.)	Former Principal Adviser (AR) to Chief Minister, Govt. of Himachal Pradesh
53. N.C. Saxena	IAS (Retd.)	Former Secretary, Planning Commission, GoI
54. Abhijit Sengupta	IAS (Retd.)	Former Secretary, Ministry of Culture, GoI
55. Aftab Seth	IFS (Retd.)	Former Ambassador to Japan
56. Ashok Kumar Sharma	IFS (Retd.)	Former Ambassador to Finland and Estonia
57. Navrekha Sharma	IFS (Retd.)	Former Ambassador to Indonesia
58. Raju Sharma	IAS (Retd.)	Former Member, Board of Revenue, Govt. of Uttar Pradesh
59. Rashmi Shukla Sharma	IAS (Retd.)	Former Additional Chief Secretary, Govt. of Madhya Pradesh
60. K. Ashok Vardhan Shetty	IAS (Retd.)	Former Vice Chancellor, Indian Maritime University, GoI
61. Jawhar Sircar	IAS (Retd.)	Former Secretary, Ministry of Culture, GoI, & former CEO, Prasar Bharati
62. Parveen Talha	IRS (Retd.)	Former Member, Union Public Service Commission
63. P.S.S. Thomas	IAS (Retd.)	Former Secretary General, National Human Rights Commission
64. Hindal Tyabji	IAS (Retd.)	Former Chief Secretary rank, Govt. of Jammu & Kashmir

Endorsements of the letter written by retired civil servants by veterans of the Armed Forces, academics and concerned citizens

1. Admiral L.Ramdas, PVSM, AVSM, VrC, VSM, ADC
2. Admiral Vishnu Bhagwat, PVSM, AVSM
3. Lt Gen C.A.Barretto, PVSM
4. Lt Gen Vijay Oberoi, PVSM, AVSM, VSM
5. Maj Gen S.G.Vombatkere, VSM
6. Maj Gen T.K.Kaul, PVSM, AVSM VSM
7. Brig V.H.M.Prasad
8. Cdr Satya Prakash Taneja
9. Cdr Rajvir Singh
10. Maj Priyadarshi Chowdhury, SC
11. Lt Gen M.A. Zaki
12. Group Capt M.H.Zaki
13. Colonel Swapan Bhadra
14. S.A. Khader, I.G. BSF
15. Abha Dev Habib, Miranda House, University of Delhi
16. Abhay Kumar Dubey, Centre for the Study of Developing Societies, Delhi
17. Abhijit Roy, Department of Film Studies, Jadavpur University, Kolkata
18. Abir Dasgupta, Independent Journalist, Mumbai
19. Aditya Nigam, Professor, Centre for the Study of Developing Societies, Delhi
20. Anjali Monteiro, Professor, Tata Institute of Social Sciences, Mumbai
21. Areeb Rizvi, Independent Researcher
22. Aruna Rodrigues, Environmentalist, Sunray Harvesters, Mhow, MP
23. Arundhati Ghosh, Arts Professional, Bangalore
24. Ashish Kothari, Environmentalist, Pune
25. Ashoke Ranjan Thakur, Ex-Vice Chancellor West Bengal State University
26. Ayesha Kidwai, Professor, Jawaharlal Nehru University
27. Avinash Kumar, JNU
28. Bishnupriya Dutt, Professor, JNU
29. C. P. Chandrasekhar, Professor, JNU
30. Doyeeta Majumder, Assistant Professor, Jadavpur University, Kolkata
31. G. Arunima, Professor, JNU
32. Ira Bhaskar, Professor, JNU
33. Janaki Nair, Professor, JNU
34. Jayati Ghosh, Professor, JNU
35. K.P. Jayasankar, Professor, Tata Institute of Social Sciences, Mumbai
36. Lakshmi Subramanian, Retired professor, CSSSC, Kolkata
37. Lata Singh, Associate Professor, JNU
38. Madhu Sahni, Professor, Jawaharlal Nehru University
39. Nandita Narain, St. Stephen's College, Delhi University
40. Nivedita Menon, Professor, JNU
41. Peter R DeSouza, Professor, CSDS, Delhi
42. Pranab Kanti Basu, Retired Professor, Visva-Bharati Santiniketan

43. Probal Dasgupta, Retired Professor, Indian Statistical Institute, Kolkata
44. Purusottam Bhattacharya, Retired Professor of International Relations, Jadavpur University, Kolkata.
45. Sanjeeb Mukherjee, Former faculty, University of Calcutta
46. S. Prakash, JNU
47. Sukanta Chaudhuri, Professor Emeritus, Jadavpur University, Kolkata
48. Sumit Chakrabarti, Professor of English, Presidency University
49. Sumit Sarkar, Retired Professor, Delhi University
50. Supriya Chaudhuri, Professor (Emerita), Jadavpur University, Kolkata
51. Swapan K. Chakravorty, Kabiguru Rabindranath Tagore Distinguished Chair in the Humanities, Presidency University Kolkata
52. Tanika Sarkar, Retired Professor, JNU
53. Vikas Bajpai, Assistant Professor, Jawaharlal Nehru University
54. Shilpi Singh Executive Coach ,Gurgaon
55. Paranjoy Guha Thakurta, NCR, Journalist, Gurgaon
56. Tara Murali, Architect, Chennai
57. Aruna Rodrigues, Environmentalist, Sunray Harvesters, Mhow
58. Shabnam Hashmi, Social Activist, New Delhi
59. Leela Samson, citizen, Chennai
60. Ayesha Maria Mualla – Delhi
61. Primila Lewis, Social worker (retd)
62. Fatima Zarafshan Lecturer, Miyapur, Hyderabad, Telangana
63. Dilip Simeon – retd Teacher Delhi University
64. Ravi Katari – Citizen of India, Chennai
65. Om Prakash Singh – Citizen - Chennai
66. Ravi Nitesh – Social Activist, New Delhi
67. Dr Virendra Vidrohi, Gen Sec, INSAF Delhi
68. Abha Bhaiya, Jagori Rural, Himacha Pradesh
69. Anita Dighe, Concerned Citizen, NOIDA
70. Niloufer Bhagwat, Vice President, Indian Association of Lawyers
71. Tripta Wahi, Retd Professor, Delhi University
72. Mandira Kumar
73. Tripta Batra, Delhi, NCR
74. Ram Narayan, Ecologist, Uttarakhand
75. Aquil Hashim, Bengaluru
76. Lakshmi Krishnamurty, Alarippu, Bengaluru
77. Arjun Mahey, Assoc Professor, St Stephens College, Delhi University
78. Madhu Ramnath, Adukkam Village, Kodaikanal Taluk, Dindigul District
79. Rani Day Burra, Bengaluru
80. Ashok Nehru, New Delhi
81. Malti Nehru, New Delhi
82. Somi Hazari
83. Lalita Ramdas, Citizen and Educator, Village Bhaimala, Alibag, Raigad

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