

# Mental Health in the Workplace

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# Presenters



**Mike Bourgon**

Employment & Labor Law Attorney  
SYNERGY HUMAN RESOURCES



**Gretchen Thompson**

Sr. HR Generalist and Consultant  
SYNERGY HUMAN RESOURCES



# Housekeeping



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# Agenda

- Mental Health in the Workplace
- Gender Identity in the Workplace
- The Importance of Performance Management
- Proper Documentation of Corrective Actions or Discipline

# Mental Health in the Workplace



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# Mental Health in the Workplace

- Mental health in the workplace is top of mind. And a lot has changed about what we understand about mental health at work.
- There is an increased prevalence of poor mental health.
- Supporting mental health in the workplace is no longer a nice-to-have but a necessity.
- Mental health conditions cost employers more than \$100B and 217M lost workdays each year.
- Companies would be remiss to underestimate the importance of discussing mental health at work.

# Mental Health in the Workplace

- Employees are afraid of discussing mental health with co-workers and their employers.
- They don't want to lose their jobs, damage relationships or risk future employers learning of illnesses and judging them.
- The stigma of mental illness keeps employees silent.
- Silence perpetuates the issue.

# Defining Mental Health

- Mental health is a state of **well-being** in which an individual can cope with everyday stressors, work productively, reach his or her or their full potential, and contribute to their community.
- You can have poor mental health without having an illness and likewise, you can have good mental health with a mental illness.
- Mental health, along with physical health and social well-being, is an essential component of overall health.
- Mental health and human performance are not two separate pursuits but rather two parts of the same equation. Combined, they are what make humans flourish.

# Mental Health Effects at Work

- **How can mental health issues affect my job?**

- When you feel good mentally and emotionally, you approach your job with good mental health. You're adaptable, flexible, and resilient.
- You are able to handle challenges.
- Your contributions to your team are meaningful, and you thrive in your personal and professional life.
- But when you're struggling with poor mental health at work, even if it isn't extreme, it negatively affects your job in many ways.

# Consequences of Poor Mental Health at Work

- **Engagement with one's work.**
  - Poor mental health leads to demotivation and lack of focus.
- **Productivity and job performance.**
  - High performance is mental strength in motion. When we don't feel good, accessing the behavioral skills that foster creativity and resilience is challenging.
- **Physical capability and daily functioning.**
  - From social anxiety to a reduction in cognitive performance and working memory, poor mental health takes a major toll on your daily living and physical capability. You feel depleted.
- **Communication.**
  - It's difficult to communicate well when we're emotionally not feeling well.
- **Poor decision-making.**
  - Leads to missed meetings, showing up late, dropping commitments, or not adhering to company policies.

# Workplace Example

- Let's say there is an employee who has been diagnosed with panic disorder and suffers from panic attacks during work. He sometimes runs out of a meeting dripping with sweat.
- If he doesn't feel comfortable discussing his panic attacks: He might not seek treatment, causing his performance to plummet. His supervisors might consider firing him.
- If he felt, he could discuss it with his boss: They could work together to create a plan that might allow the employee to improve his performance and become more valuable to the company. These results would improve his overall happiness and confidence.

# Workplace Example

- Imagine a woman who deals with depression. In the late evening she video chats with a therapist who tells her the depression is nothing to be ashamed of.
- Then she goes to work in the morning. No one talks about mental illness. It's as if it doesn't exist.
- On the rare occasions she does hear about it, the conversations are not positive. Her co-workers don't have enough education to be sensitive. They accuse people of using mental illness as an excuse to be lazy or receive special treatment.

# Ways to Promote Well-Being at Work

## AS AN EMPLOYER:

- 1. Employee assistance program (EAP).**
- 2. Relaxation spaces.**
- 3. Mental health self-assessment tools available to all employees.**

For instance, tools may include:

- Mental health meter quiz
- Mood assessment checklist
- Work-life balance quiz
- Assessing your current situation

questionnaire

- Online alcohol and drug help center
- Online mental health check-up

- 4. Free or subsidized clinical screenings for depression.**
- 5. Free or subsidized mental wellbeing coaches.**
- 6. Offer health insurance with no or low out-of-pocket costs.**



# Ways to Promote Well-Being at Work

## AS AN EMPLOYEE:

- 1. Participate in employer-sponsored programs and activities.**
- 2. Share personal experiences with others.**
- 3. Adopt coping skills during the workday.**

Coping tools may include:

- Deep breathing
- Healthy communication
- Focusing on one task at a time to avoid being overwhelmed
- Using positive self-talk

- 4. Practice self-care on lunch breaks.**

Practicing self-care during lunch breaks may include:

- Listening to inspirational podcasts
- Meditating
- Deep breathing
- Going for a short nature walk
- Using the emotional freedom technique (EFT)/tapping

- 5. Take care of their physical health.**
- 6. Nurture relationships.**



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# Resources for Mental Health

- Suicide Prevention Hotline:
  - 800-273-8255
- Suicide Prevention Website and Resources:
  - <https://suicidepreventionlifeline.org/>
- Dial **211** to reach the United Way
- Group Life Insurance
  - Policies often have some mental health benefit
- County Hospitals
- Employee Assistance Programs (EAP)

# Summary

Mental health is more than the absence of mental illness

Mental health aids in coping with stress

Workplace wellness must be a top priority

You can't have health without mental health

Human performance and mental health go hand in hand

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The infographic features several illustrations: a person in a hospital bed being visited by a family member; a person on a couch talking to a therapist; a group of people sitting on the floor in a circle, possibly in a meeting or workshop; a person painting; and a person reading to a child. The text boxes are color-coded: pink, teal, orange, yellow, and blue.

# Gender Identity in the Workplace



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# Gender Identity in the Workplace: Law

- The law forbids sexual orientation and gender identity discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.
- It is unlawful to subject an employee to workplace harassment that creates a hostile work environment based on sexual orientation or gender identity. Harassment can include, for example, offensive or derogatory remarks about sexual orientation (e.g., being gay or straight). Harassment can also include, for example, offensive or derogatory remarks about a person's transgender status or gender transition.
- Accidental misuse of a transgender employee's preferred name and pronouns does not violate Title VII, intentionally and repeatedly using the wrong name and pronouns to refer to a transgender employee could contribute to an unlawful hostile work environment.

# Gender Identity in the Workplace: Law

- As a general matter, an employer covered by Title VII is not allowed to fire, refuse to hire, or take assignments away from someone (or discriminate in any other way) because customers or clients would prefer to work with people who have a different sexual orientation or gender identity.
- Employers also are not allowed to segregate employees based on actual or perceived customer preferences. (For example, it would be discriminatory to keep LGBTQ+ employees out of public-facing positions, or to direct these employees toward certain stores or geographic areas.)
- Prohibiting a transgender person from dressing or presenting consistent with that person's gender identity would constitute sex discrimination.

# Gender Identity in the Workplace: Retaliation

It is illegal for an employer to retaliate against, harass, or otherwise punish any employee for:

- Opposing employment discrimination that the employee reasonably believed was unlawful;
- filing an EEOC charge or complaint;
- or participating in any investigation, hearing, or other proceeding connected to Title VII enforcement.
- Retaliation is anything that would be reasonably likely to discourage workers from protesting discrimination.

# Gender Identity in the Workplace: Bathrooms

- The subject of the bathroom is perhaps one of the most controversial facing gender identity and transgender individuals.
- Courts have long recognized that employers may have separate bathrooms, locker rooms, and showers for men and women, or may choose to have unisex or single-use bathrooms, locker rooms, and showers.
- The EEOC has taken the position that employers may not deny an employee equal access to a bathroom, locker room, or shower that corresponds to the employee's gender identity.

# Gender Identity in the Workplace

- Does the topic of gender identity seem too difficult or personal to address within the workplace?
- Ultimately, it is up to each individual whether or not they choose to share their transition experience with the workplace. While some people may choose to discuss their gender identity with coworkers and supervisors alike, some employees may find this to be a strictly personal matter.
- The best way to accommodate both scenarios is to normalize the concept of varying gender identities within the workplace. This can be done through small gestures, like encouraging employees to include preferred pronouns in workplace correspondence.

# Gender Identity in the Workplace

- Some employees may be resistant to accommodations for transgender or intersex individuals within the workplace. These people may, unintentionally, discriminate against their fellow coworkers, making them feel judged or uncomfortable with their identity at work.
  - Guide them with resources and education in the hopes that they will become more considerate of varying representations of gender identity.
- Intentional and directly transgressive acts of harassment or discrimination against employees on the basis of gender identity should not be tolerated.
  - Equal Employment Opportunity Commission offers extended protections that include all LGBTQ workers, regardless of location.

# The Pronouns

## Why pronouns matter:

- In English, our most commonly used pronouns (he/she) specifically refer to a person's gender. For queer, gender non-conforming, non-binary, and transgender people, these pronouns may not fit, can create discomfort, and can cause stress and anxiety.
- A recent study showed that in transgender youth, using correct pronouns and names reduces depression and suicide risks.
- Having trouble understanding why this would upset someone? Think about your pronoun (it's probably "he" or "she"). Now imagine someone calling you the one you don't think of yourself as. Imagine them doing it over and over and over, even after you've corrected them.

# Gender Identity in the Workplace Summary

- The EEOC makes it illegal to harass, discriminate, or retaliate based on gender identity.
- Treating everyone equitably and with respect creates a more positive and productive work environment.
- Employees are legally allowed to use the bathroom with the gender that they identify
- Pronouns may help reduce stress, anxiety, and depression for employees
- Continuous education on LGBTQ+ is needed

# Continuous Performance Management



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# What Is Continuous Performance Management?

Continuous Performance Management in a human resource (HR) management context, is defined as performance management processes that take place throughout the year on an ongoing basis. It is a continual holistic process, as opposed to those based on traditional annual appraisals. As feedback occurs more often, it feels more natural for both manager and employee, who can develop more of a healthy, authentic workplace relationship.

These processes include near-term objective and goal setting, regular one-to-ones (or “check-ins”) and real-time feedback.

# Why Is Now the Time for Continuous Performance Management?

## And why Are Companies Ditching Annual Appraisals?

- Management thought leaders such as the CEB have long been advocating that performance management should be part of managers' everyday role and that once or twice a year appraisals are not an effective use of time. But it's no longer just academics who think this. 95% of managers are not satisfied with their organization's annual performance management process and 75% of employees see yearly reviews as unfair. Another study has found that only 8% of companies believe that their traditional performance management process drives business value. When looking for an alternative to annual appraisals, continuous performance management is a solution that complements and supports the pace of modern business.

# Why Is Now the Time for Continuous Performance Management?

- Aside from the fact that more and more companies are turned off by the inefficiencies and limitations of their traditional performance management processes, there are many reasons why now is the best time to transition to a more continuous process.
- Modern business is fast-paced. Companies face unexpected pressures and obstacles daily and they need a performance management system that accommodates this reality. Businesses need to be agile, to thrive and compete. They need employees who are empowered, connected and able to take ownership over their work. Continuous performance management encourages this by providing instant communication, strengthening relationships through transparent dialogue and giving employees autonomy and independence — something that greatly appeals to the modern Millennial workforce.

# What Are the Tangible Business Benefits and Business Outcomes of Regular Check-Ins?

- There are many statistics and case studies to back up the efficiency of continuous feedback and its impact on employee performance, employee development and retention.
- Research has found that over 50% of companies where goals are reviewed each month are in the top quartile in terms of financial performance, whereas only 24% of companies where goals are re-evaluated once a year made it into the same bracket. It has also been shown that companies who manage objectives quarterly generate 30% higher returns than organizations who address them annually.

# What Are the Tangible Business Benefits and Business Outcomes of Regular Check-Ins?

- Frequent feedback is now being labelled the “killer app” and has been shown to boost performance by up to 39%. A study by Gallup has also found that employees whose managers hold regular one-to-ones with them are almost three times as likely to be engaged. Furthermore, as mentioned previously, after transitioning to agile performance management, Adobe saw a remarkable 30% drop in voluntary turnover.
- Importantly, more continuous performance reviews can actually save your company time and money. Annual reviews take a substantial investment when it comes to management hours and form-filling. Because they try to accomplish too much in one sitting and because they are so dreaded by everyone involved, they end up being unproductive and, ultimately, a waste of time.



# What Is Holding Companies Back from Incorporating Continuous Performance Management?

- Given all the clear benefits of continuous performance management, why haven't all companies made the transition? Why are some companies holding onto their annual appraisals? At Clear Review, we ran a poll to find out.
- We discovered 60% of participants were holding back from continuous reviews because they were worried about encouraging managers to have more meaningful conversations. This is an understandable concern — the last thing you want is to have more meaningless meetings wasting time in your organization. This is why we recommend giving managers appropriate training and guidance, so they know how to conduct one-on-ones effectively.

# Is There Still a Place for Annual Performance Reviews?

- Most organizations that we speak to embrace the concept of continuous performance management, but many question whether they should still be doing annual performance reviews. Our view is that annual reviews are, in most cases, an unnecessary bureaucracy. Performance management is ultimately about supporting employees to perform to their highest potential and this cannot be achieved through an annual performance review. Having regular, future-focused check-ins and giving frequent feedback are proven to be the best way of improving an employee's performance.
- For some organizations, this may leave the question of how they can collate the performance and talent data they need to make decisions about pay and promotions. Organizations like Deloitte have addressed this by periodically asking managers a small number of performance and talent related questions about each of their team members. If managers are having regular check-ins with their staff and seeing feedback about them throughout the year, then they can answer these questions without the need for a lengthy appraisal discussion.

# How to Implement Continuous Performance Management

- It all starts with getting your leadership and management team on the same page — they will need to understand and buy into the benefits offered by agile performance management. The appropriate training is also a necessity — managers need to know how to give effective, motivational feedback during employee on-to-ones.

# What Is the Role of Continuous Performance Management Software?

- To be effective, continuous performance management needs to be collaborative, frequent and take place in real-time rather than retrospectively. It also needs to be monitored to ensure it is being carried out effectively.

# What Is the Role of Continuous Performance Management?

- Feedback to be given “in-the-moment” rather than waiting until the next one-to-one
- Action points from check-ins to be captured and followed up, rather than being noted down in a book and forgotten about
- Objectives to be set collaboratively. They also need to align with organizational goals and be regularly updated
- Progress and obstacles to be captured as they happen
- Reminders to be sent automatically to those who have not had a check-in or given feedback recently
- HR to have visibility of how often check-ins are taking place across the organization and how frequently feedback is being given
- HR to collate performance and talent data without having to carry out formal performance appraisals

# Discipline: The Fine Art of Documentation



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# Discipline: The Fine Art of Documentation

In order to defend a termination decision, employers should live by three words, according to Rebecca Siegel Singer, senior counsel with the Dallas law firm Underwood, Perkins & Ralston, P.C.:

“Documentation, documentation, documentation.”

But for some that’s easier said than done.

# Discipline: The Fine Art of Documentation

Case in point: In an October 2009 HR Talk posting on the Society for Human Resource Management (SHRM) web site, a member wrote:

“On a recent disciplinary write up for an employee who showed up to work over two hours late (the second time in a month) the employee stated that he has been informed not to sign any disciplinary actions issued by the company.

Do any of you have a similar problem within your organization?”

# Discipline: The Fine Art of Documentation

SHRM members responding to the post offered plenty of advice, such as calling in a witness to verify the employee's refusal to sign and even tricking the employee into signing by asking for a signature on the back of the piece of paper instead.

# Discipline: The Fine Art of Documentation

Singer said employees should be asked to sign documentation acknowledging that they have received a warning, that they understand company policy and that they know what is expected of them.

If they refuse, however, she said, an employer can simply send a follow-up e-mail confirming that the conversation took place and the nature of what was discussed and noting that the employee refused to sign the documentation.

# Discipline: The Fine Art of Documentation

But one expert suggested that documentation challenges occur because managers try to place the proverbial “cart before the horse.” “Documentation is so easy, and companies get it so wrong,” said Dick Grote, founder of Grote Consulting and author of Discipline Without Punishment (AMACOM, 2006). “There is an erroneous notion that what you are documenting is the existence of the problem.”

# Discipline: The Fine Art of Documentation

He said the real purpose of documentation is to make a record that a conversation took place. As such, the need for an employee's signature is much reduced.

“The reason the nasty signing business comes up,” he told SHRM Online, is to prevent supervisors from writing an employee up and dropping the documentation into the employee's file, sight unseen.

That's why it's important to be sure that the documentation follows the discussion, Grote noted.

# Discipline: The Fine Art of Documentation

Experts say that progressive discipline, when done right, should change employee behavior to meet employer expectations.

“Progressive discipline works when it is just that—progressive,” said Dawn M. Adams, PHR, president of HResults in Hartland, Wis., and member of SHRM’s Employee Relations Special Expertise Panel. Each step of the progressive discipline process should include very specific information on areas for improvement, appropriate measurements, and a time frame by which to gauge improvement and ramifications for not improving, she explained.

# Discipline: The Fine Art of Documentation

“I like to use the time frame of ‘immediate and continued’ so that the improvement is sustained and the efforts toward improvement begin immediately,” said Adams.

“A true progressive discipline policy is one where the employer begins steadily advising an employee of performance-related deficiencies and attempts to provide the employee with suggestions and advice on how the employee can improve his/her performance,” said Paul Lopez, director of the labor and employment practice of Tripp Scott, a South Florida law firm.

# Discipline: The Fine Art of Documentation

Therefore, it provides an opportunity to rehabilitate an employee whose performance is falling short of expectations and serves as a warning that further discipline could be forthcoming if warranted, he added.

“Oftentimes, however, instead of doing it this way, a manager will try to document a file with evidence of performance problems after the manager has already decided that termination is the appropriate measure,” Lopez told SHRM Online.

# Discipline: The Fine Art of Documentation

Grote said documentation should indicate that it is being provided to confirm a conversation that took place at a particular place, date and time between named individuals. It should summarize what each party said and indicate the outcome of the discussion, he added, such as making it clear that the employee will be given a paid day of “decision-making leave” if performance or conduct fails to meet stated expectations.

# Discipline: The Fine Art of Documentation

## **A Documentation Oxymoron**

Marie LaMarche, MBA, SPHR, employee/labor relations manager for the Harrison Medical Center in Bremerton, Wash., and a member of SHRM's Employee Relations Special Expertise Panel, said one aspect of the company's progressive discipline policy rubs supervisors the wrong way: the documented verbal warning or, as supervisors call it, the "written verbal."

# Discipline: The Fine Art of Documentation

However, in a union environment such as theirs, she said, it is important to have a record of what was discussed and what is expected of the employee.

“In instances where the verbal is not documented but mentioned in written documentation, inevitably a misunderstanding of what was discussed will arise,” she told SHRM Online.

# Discipline: The Fine Art of Documentation

“The fact that the warning was given should always be documented,” said Damon Kitchen, a partner with the law firm Constangy, Brooks & Smith’s Jacksonville, Fla., office, and should include the date and time of the incident, the date and time the verbal warning was given, the substance of what was said and a brief explanation of the policy violation that caused the warning to be issued. But he noted: “A verbal warning should be issued verbally, as opposed to in a written or electronic format.”

# Discipline: The Fine Art of Documentation

## A Team Effort

Managers and HR staff should work together to ensure that discipline is reasonable, according to Debra Love, senior director of client HR at Oasis Outsourcing, a firm that represents more than 3,000 client companies employing between 25 and 2,000 employees each. HR serves as a sounding board, she said, and makes sure that the policy is applied consistently, without regard to protected class.

“Throughout the entire process, HR should be involved and providing guidance,” Adams stated.

# Discipline: The Fine Art of Documentation

“The manager is responsible for ensuring that the employee understands where he/she stands,” Adams said. But that’s only one piece of the process.

“To minimize risk, managers must document the performance issues, improvements made, lack of improvement, and other relevant information,” she said.

And that’s one of the many ways in which HR can help.

# Discipline: The Fine Art of Documentation

When working with clients, Grote provides training for those with leadership responsibilities. “It’s the senior line managers that are responsible for making sure the tools are being used,” he said. They know who the “problem children” are in an organization and should be asking those employees’ supervisors where they stand in the discipline process, he added.

# Discipline: The Fine Art of Documentation

But additional training is provided to the HR team, Grote said, so HR can reinforce the learning, answer questions and coach supervisors on how to have good conversations with employees. “HR’s job is to be the wise counselors and advisors that help managers,” he said.

# Manager's Guide to Documenting Discipline



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# Manager's Guide to Documenting Discipline

Documentation of discipline issued to an employee is as important as the discipline itself—and it could prove to be more important if the employee's unacceptable behavior continues.

In the absence of a written record of previous discipline that alerts the employee to the problem and provides an opportunity to correct the behavior, termination cannot usually be justified.

# Manager's Guide to Documenting Discipline

The discipline document should be written in plain, nontechnical language that the employee can understand. It should be legible and treated as confidential. It should only be available to those with a need to know. The document should identify the author and the date it was written.

In creating the document, follow these two important best practices to ensure its accuracy and truthfulness:

# Manager's Guide to Documenting Discipline

1. Include only facts, not opinions, hyperbole, or conclusions. Any overstatements or exaggerations can damage the organization's credibility in the event the discipline is later reviewed by a third party such as an arbitrator, regulatory agency, or court.
2. Have another person review it. This should be someone in HR or the next level manager who is removed from the situation and able to view it more objectively. This person can assess whether the discipline is fair and whether the document is accurate and complete and accomplishes the goals of the discipline.

# Manager's Guide to Documenting Discipline

## Standard Documentation

Generally, it is helpful for the organization to have a standard disciplinary documentation form to ensure that all the necessary information is captured in the document.

A good disciplinary document itself should, at a minimum:

- Refer to the rule or standard that was violated, the location of the rule or standard, and how the employee was notified of the rule or standard. (i.e., "...the company's no call, no show policy on page 5 of the employee handbook distributed at the time of hire.")

# Manager's Guide to Documenting Discipline

- Describe any previous counseling or discipline given for similar incidents or previous steps in the progressive discipline process taken. If previous counseling or discipline was documented (and hopefully, it was) attach copies of those documents to the new document.
- Describe the effect on the organization of the employee's failure to comply with the rule or meet the standard. (i.e., unable to meet customer orders, unable to effectively schedule employees, need to pull another employee off his/her job to cover)
- Clearly set out the expected behavior for the future.

# Manager's Guide to Documenting Discipline

- State the consequences of additional violation of the rule or standard.
- Reinforce the organization's willingness to help the employee meet the expectations and express hope that he or she will succeed.
- Include the employee's signature and the date signed. If the employee refuses to sign, note the refusal on the document and include the date and time it was presented to the employee. Then date and sign the document under your notation of the employee's refusal.

# Manager's Guide to Documenting Discipline

## **Disciplinary Meeting**

Include the employee's signature and the date signed. If the employee refuses to sign, note the refusal on the document and include the date and time it was presented to the employee. Then date and sign the document under your notation of the employee's refusal.

# Manager's Guide to Documenting Discipline

Go through the document point by point with the employee, making sure each point is understood. Spend adequate time to make certain the employee understands what is expected. Quantify the behavior, if possible.

Instead of saying “you need to be here on time all day, every day,” say “you need to report for work by 8 a.m. and work until 5 p.m., Monday through Friday.”

Ask the employee to explain the requirement to you in his or her own words.

# Manager's Guide to Documenting Discipline

It is important to offer encouragement to those who are being disciplined. Present the discipline as notification of an opportunity to improve, not as another step on the way to termination.

Express your belief that the employee can bring his or her behavior into compliance with the organization's standards and offer coaching, counseling, and training in technical or interpersonal skills, as needed.

# Manager's Guide to Documenting Discipline

Not only is good disciplinary documentation necessary to justify a termination, it is also key in accomplishing the goal of discipline—the correction of the employee's unacceptable behavior.

Clear documentation and presentation of that documentation by the manager will help the employee understand the nature of the problems and the changes he or she must make to correct the problems, increasing the likelihood that the desired behavior change will occur.



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