2003 Legislative Agenda

Indiana Department of Education
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LEGISLATIVE POLICY PRIORITIES

Teacher Conduct and Student Safety/ House Enrolled Act 1202-2002 Veto

During the 2002 session of the Indiana General Assembly, a bill to enhance the safety of Hoosier students and address teacher misconduct issues passed through the House of Representatives and Senate by unanimous votes. This bill, House Enrolled Act 1202, was vetoed by the governor due to flaws in the bill that would increase the liability exposure of the state and local units of government to pay punitive damages in tort, contract, or civil rights cases. The Indiana Department of Education supports reintroduction of this legislation with corrections to the liability provisions of the bill.

House Enrolled Act 1202 contained many important revisions and improvements to current law intended to protect students. In summary, the key provisions of the bill included:

- A requirement that local prosecuting attorneys immediately notify the state superintendent of public instruction and the local school corporation superintendent of certain felony convictions such as child molestation and child seduction to begin the teacher/administrator license revocation process.

- An expansion of the list of felonies for which a teacher or an administrator license must be revoked to include kidnapping, criminal confinement, and dealing of controlled substances.

- A provision to provide the Superintendent of Public Instruction with the authority to initiate a suspension action against a teacher/administrator license for acts of immorality, incompetence, misconduct, and willful neglect of duties.

- A change to statute concerning seduction of a child at least 16 years of age to add behaviors that constitute the offense and to expand coverage to all employees of a child's school corporation.

Under present law (IC 20-6.1-3-7), the Superintendent of Public Instruction may bring charges to the attention of the Indiana Professional Standards Board which has the authority to permanently revoke a license of certified school personnel when such a person has been convicted of a limited list of felony crimes, generally heinous crimes, against children. However, the Superintendent of Public Instruction cannot initiate a license suspension action for lesser offenses, or others acts of immorality, incompetence, misconduct, or willful neglect of duties. In some situations a license suspension is a more suitable penalty rather than license revocation. Due to limitations of state law, individuals may face few consequences professionally for acts of wrongdoing, misconduct, or immorality, and continue to work in schools by resigning from their current positions and seeking and securing employment in another school district in a different community.

This legislation is needed to correct these problems and to protect our children from those who would use their position of authority as a school employee to prey upon the innocence of our youth.

School Corporation Annual Performance Report

In 1996, the Indiana General Assembly passed legislation that separated school and student performance information from the annual financial reports published by school districts in local newspapers, and it established the school corporation annual performance report law (IC 20-1-21). The format and content of the annual performance reports have evolved since the passage of Public Law 34-1996. To continue efforts to improve the reports, the Indiana Department of Education recommends modifying the statutory provisions pertaining to the time line for publication and the list of benchmark indicators that must be included in the reports. The changes proposed by the Department will further the utility and effectiveness of the reports by ensuring the inclusion of the most current, complete, and accurate data.

When the annual performance report law was established, a September 1 through September 15 publication period was selected in anticipation that complete data would be available for the school year just concluded. Many data items for the previous school year are not available until after the reporting period. Dropout data, Core 40 completion, Academic Honors Diploma completion, and data about the percentage of graduates who pursue higher education all are reported on forms due on or around October 15. Information about PSAT, SAT, ACT, and AP performance also is received in the fall. This results in incomplete data items in the annual report, or the data may be a year out of date.

To resolve this problem, the Department recommends changing the publication period to January 1 through January 15. Changing the publication period to January will allow for more complete data, including the latest ISTEP+ scores from the fall.

In addition to changing the publication period, the Department recommends changes to the list of benchmark indicators found in IC 20-1-21-9. The proposed changes would provide uniformity in the data school districts and the Department compile, with what is reported in the annual performance reports. A few new indicators will be added to provide meaningful information to the public about student enrollment and the number and percentage of students who have limited English proficiency. Finally, this proposal removes statutory language concerning obsolete components of the performance-based accreditation system and separates the quantifiable information from that better reported in narrative form.

School Corporation Tax Anticipation Warrant Flexibility

Cash flow will be a major concern for Indiana's school corporations for calendar year 2003 and beyond. Public school revenues will be negatively impacted by the delay in state tuition support payments (no January 2003 payment), and the delays in property tax reassessment occurring in many counties that will delay property tax distributions to schools.

Indiana Code 20-5-4-8 provides school corporations the opportunity to issue tax anticipation warrants twice a year. School corporations can borrow up to 80 percent of the amount of taxes and state tuition support

distributions estimated to be collected or received for and distributed by the June property tax settlement, repayable by June 30; and in the second six months for the December property tax settlement, repayable by December 31. Due to the negative cash flow issues facing school corporations, payroll for school employees will be in jeopardy, employee withholding payments to the Indiana Department of Revenue and the Internal Revenue Service will be difficult, and payment of debt obligations could come late forcing a default situation.

To address the cash flow issues, the Department of Education proposes that the Indiana General Assembly consider providing school corporations the flexibility to borrow 80 percent of anticipated revenue for a 12 month period, with the payments due on or before December 31. This would be especially helpful to the corporations located in counties where property tax reassessment is delayed, and June property tax distributions are not received on time.

The Department of Education commends, among others, the Indiana Bond Bank for identifying potential solutions (such as a short-term loan program) to help school corporations with their cash flow problems. If the Bond Bank has the capacity to assist all school corporations that have temporary cash flow concerns, then the need for modification to IC 20-5-4-8 diminishes. The Indiana Department of Education will advise the legislature on this matter as the 2003 session progresses.

Change Kindergarten Enrollment Date From July 1 to September 1

Although the Indiana General Assembly adjusted the kindergarten entrance date by one month during the 2001 session, Indiana's July 1 date is still, by far, the earliest in the nation. The current law establishing this date prevents thousands of children (whose birthdays are in July and August) from having access to appropriate learning opportunities at the most important time in their development.

Changing the kindergarten entrance date to September 1 will not force any children to attend school earlier but will welcome children who turn 5 in July and August. Parents still will make the decision about when to enroll

their child in school. In Indiana, compulsory education does not begin until the year of the child's seventh birthday.

Having disadvantaged children spend an extra year in environments that do not promote their growth and learning will likely put them even farther behind their peers who have access to quality educational opportunities. Dr. Lilian Katz, Director of the ERIC Clearinghouse on Elementary and Early Childhood Education and Professor Emerita of Early Childhood Education at the University of Illinois, writes:

I hope the legislators of Indiana keep in mind the number of Indiana youngsters for whom public school kindergarten will likely be their first opportunity for education . . . Indeed it is likely that the current late entry age has its greatest impact on low-income families and their children. In this way, the disparities among children can only be exacerbated (letter to the Indiana Association for the Education of Young Children, June 9, 1998).

Indiana's July 1 kindergarten entrance date is inconsistent with those of the rest of the states and current research. The state with the closest kindergarten entrance date to Indiana is Missouri with an August 1 date. The majority of states have a date in September or later, with September 1 being the most common date (17 states). Surrounding states' entrance dates are: Illinois, September 1; Ohio, September 30; Kentucky, October 1; Michigan, December 1.

Indiana's July 1 date causes difficulties for many families who move from other states to Indiana. Parents, who anticipate a move **from** Indiana, also express concerns about their children being so much older than classmates in their new state. Recent research, published in *The Journal of Pediatrics*, finds adolescents who are old-for-grade have higher rates of behavior problems and of risky behaviors, including drug use. The report also states that delaying school entry also may delay detection and treatment of undiagnosed developmental delays or learning disabilities. Such delays may predispose children to later problems. ("Increased Behavior Problems Associated with Delayed School Entry and Delayed School Progress," *The Journal of Pediatrics*, 100(4), 659, 1997)

Additionally, the National Association of School Psychologists reports the following research on delayed kindergarten entrance:

- Delaying kindergarten until the age of 6 has not resulted in improvement in reading, writing, or math skills.

- Delayed entrants 4 to 12 years after entering school were no more academically skilled, athletically involved, or socially successful than students who had entered kindergarten just after turning 5 years old.

- Students who are one year too old for a grade level are much more likely to drop out of high school.

(National Association of School Psychologists. *School Entry Decisions: A Guide for Parents*, 1, 1998)

Many school corporations understand the implications of keeping children out of kindergarten until they are 6 and have chosen to exercise the appeal process [IC 20-8.1-3-17(e)] to allow children with birth dates on or before September 1 to enter kindergarten, provided that space is available. The Indiana Department of Education applauds these corporations' actions, even though, once again Indiana is faced with a disparity in the entry date between school corporations that the 1987 legislation addressed.

If a kindergarten curriculum does not meet the needs of five-year-olds, then the appropriateness of the curriculum needs to be questioned. A developmentally appropriate curriculum is based on research of child development, how children learn, and the strengths and needs of individual children.

Scientists are emphasizing how critical the first ten years of life are in terms of brain development. The kindergarten entrance date needs to be moved to September 1 to provide Indiana's children the opportunity for quality educational experiences during this critical window of opportunity for learning.

DOE 2003-2005 BUDGET ISSUES

The current economic downturn in Indiana causes concerns for every Hoosier citizen. The decline in the economy has not come at a particularly good time for many individuals, groups, organizations, and sectors in our state, including public education. During the past two years both the federal and state government have placed many new demands on the K-12 education system. Our students, teachers, and administrators have responded admirably to these growing demands and higher expectations. However, more work must be done to fully implement Public Law 221-1999, the state's new school accountability system, and the federal *No Child Left Behind Act of 2001*.

Recognizing the recent accomplishments by Indiana's K-12 education system, acknowledging the current fiscal crisis, and seeing where we need to go for the next two years, the Indiana Department of Education has submitted a budget request to the State Budget Agency, State Budget Committee, and the legislature that focuses on just three essential budget priorities to keep public education moving ahead. Those priorities are:

- No new education initiatives..
- Straight-lined funding of state categorical programs at 2001-03 levels, with the restoration of funding for a few essential programs that were cut as a result of the Deficit Management Plan in 2002.
- Focus financial resources on three target programs: 1) tuition support; 2) P.L. 221 technical assistance; and 3) a technology patch program.

Tuition Support

A request of an increase in tuition support of 3.5 percent has been submitted. A 3.5 percent average increase was requested to address the continuing rise in health and liability insurance, hikes in utility costs which each school corporation is facing, and the 2.95 percent average current year increment increase for teacher salaries. Though an increase of this amount may be out of reach, it has been requested to reflect the level of funding that is needed to continue the current level of services schools are providing and to equip school districts with adequate funding to continue school improvement efforts.

For the 2001-03 biennium, the inflation-adjusted change for regular education revenue per student average was only 0.1 percent per year. For total instructional revenue, the per pupil average increase is 0.5 percent per year (compared to 2.4 percent per year from 1993 - 2001).

The $478 million in decreased and delayed payments that occurred this biennium have been very difficult for Indiana's schools. While the cost of doing business is rising, state monies that had been counted upon for operating expenditures were decreased.

During the 2001 session, a tuition support increase of 3.5 percent was appropriated for the 2001-03 biennium despite the recession and the budget deficit looming in the state. Adequate funding of the tuition support formula is necessary if Indiana is to continue to increase student achievement and if Indiana schools are to implement Public Law 221 successfully.

The importance of tuition support funding cannot be understated. It is an investment in intellectual capital that is the future of our state.

P.L. 221 Technical Assistance

Public Law 221 requires that technical assistance funds be provided to schools that are identified as needing assistance under the continuous improvement model of the law. An appropriation of $10.2 million to fund this mandate is requested.

Of this amount, $4 million could come from two existing categorical funds: 1) Innovative School Improvements/$819,590; and 2) Performance-Based Assessments (previously Incentive Awards)/$3.2 million. The current Performance-Based Assessments/Awards funds should only be a temporary source of funding for technical assistance during the next biennium, as achievement grants must be funded during the 2005-07 biennium to comply with No Child Left Behind and to fully implement the Public Law 221 school accountability program. The balance of the $10.2 million would require new funds.

This funding level allows for those schools who fall in the lowest performance category under Public Law 221 to receive $37,500 to implement strategic programs with technical support from the Department of Education. Approximately 295 schools will be served, half in each year of the biennium.

School Technology Infrastructure *Patch* Program

A minimum investment in school technology is necessary during the 2003-05 biennium to halt the growing digital divide between wealthy and poor school corporations. Rather than the previous funding level of $40 million appropriated for the 2001-03 biennium, the Department of Education proposes a Technology *Patch* Program at a cost of $8 million for the biennium. This program could be funded through lottery and gaming revenues as was the Technology Plan Grant Fund between 1997-2001. We risk losing our past investments in technology without the Tech *Patch* Program.

Nearly 100 school corporations have not received technology funding from the state since 1996-1997. Funding from the first and second year of the Technology Plan Grant Program was disbursed to the poorest districts based on assessed valuation per pupil. Many of these school corporations were scheduled to receive new funding under the Technology Plan Grant Program, Round 2, during the 2001-03 biennium.

Despite a $20 million per year appropriation funded by the General Assembly, these funds were cut 100 percent due to the fiscal crisis facing

Indiana. The Technology Plan Grant funds in Round 1 provided needed dollars for technology infrastructure inside school buildings. However, the networks and communications pathways established six and seven years ago were designed prior to the advent of high speed fiber and other technologies that today are considered commonplace. For example, network speeds have increased at least ten-fold in this period, requiring additional cable installations and faster switches to access current software and application programs. Desktop computers acquired in that era are now obsolete. Without assistance to reinvigorate the infrastructure, many schools in this group run the risk of losing the significant investments already made, and the digital divide threatens to hamper student achievement and the learning of skills needed in the 21st century.

The corporations identified to participate in the School Technology Infrastructure *Patch* Program are those that participated in groups one and two under the Technology Plan Grant Program. The expenditure of the funds would be required to align with the school corporation's technology plan and include: technical support, wiring, networks, computers, and telecommunications access and services.

As Indiana's economy improves in subsequent years, the Indiana Department of Education recommends that the Technology Plan Grant Program be reinstated. At that time, schools included in the Technology *Patch* Program will receive any remaining balance that they are due under the Technology Plan Grant statute.

P.L. 221 Professional Development

As a state, we have delivered world-class academic standards to students, parents, and classroom teachers. To optimize student achievement through these standards, educators need ongoing professional development to make certain those standards are used to the best advantage.

The strongest support of continuation of the Professional Development funding came on August 13, 2002, during Indiana's P - 16 Pathways to College Policy Forum. More than 140 stakeholders from throughout Indiana met with national experts to formulate answers to four questions. The teacher quality question pertaining to professional development was:

How can we improve and expand teacher professional development activities to provide our current teaching force with the skills and knowledge necessary to teach Indiana's more rigorous academic standards?

The top two choices by a large majority were:

- Align instructional strategies and curriculum choices to Academic Standards.

- Give teachers professional development days and pay for them.

Though the Department of Education has in past legislative sessions supported the addition of five non-instructional days to the school calendar for professional development at a cost of $100 million, now is not the time for this request. Rather, the Department of Education supports continuing the FY '03 appropriation of $16.5 million in each year of the 2003-05 biennium for Public Law 221 professional development programs.

Testing/Remediation Programs

Fall 2002 marked the first administration of ISTEP+ under Indiana's Academic Standards 2000. This marks an important advancement and improvement to our testing system.

Testing and turn-around time on ISTEP+ has been shortened. Required testing time in Grade 3 has gone from 8 hours in 1997 to 5 hours, 10 minutes in fall 2002. In Grade 6, testing time has gone from 9 hours, 45 minutes in 1997 to 6 hours, 10 minutes in fall 2002. In Grade 8, testing time has gone from 9 hours, 45 minutes in 1997 to 6 hours, 30 minutes in fall 2002. In Grade 10, testing time has gone from 11 hours in 1997 to 7 hours in fall 2002.

This is a decrease in testing time of 37 percent overall. The result is a test that can be administered at any grade level in about the equivalent of two half-days of school.

Turn-around time for receiving test results has gone from 64 business days in 1997 to 36 business days in 2002, a decrease of 45 percent. ISTEP+

data will be used to meet the requirements of both Public Law 221 and the federal *No Child Left Behind Act of 2001*. On its current timeline for implementation, ISTEP+ meets all federal requirements under the new mandate.

The Department of Education recommends continued funding for testing and remediation at 2001-03 levels.

Full-Day Kindergarten

In 2001, the Indiana General Assembly created a full-day kindergarten program and provided $10 million/year for full-day kindergarten grants. These funds were received by 115 school corporations to provide full-day kindergarten in 305 classrooms during the 2001-02 school year. This year 132 school corporations have received grant funding to extend full-day kindergarten instruction to additional kindergarten classrooms.

The benefits of full-day kindergarten are clear. Full-day kindergarten is an effective strategy to reduce the student achievement gap that exists in Indiana as it helps students, particularly minority students, gain literacy skills faster. This program results in fewer grade retentions and a lower incidence of Title 1 placements. The Department of Education requests the appropriation of $10 million/year to be continued during the 2003-05 biennium to support local schools' expenditures to provide these experiences, if they choose, to their school communities.

Textbook Reimbursement

During the 2001-02 school year, school corporations were reimbursed by the state 84 percent of the costs incurred for students eligible for free textbooks. The Department of Education will identify and submit to the legislature a fiscal projection on reimbursing school corporations for their textbook expenses during the 2003-2005 biennium. The Department of Education requests that textbook reimbursement be funded to meet 100 percent of corporations' costs for textbooks for students who qualify for free and reduced-price meals, a commitment the legislature made to school corporations in 1997.

Summer School

The Fiscal Year 2003 appropriation was $21.6 million. The reduced amount of $18.3 million, resulting from the Deficit Management Plan, will provide a reimbursement to schools of 75 percent of costs for 2002 summer school programs for Category 1 courses only. Category 1 courses are in the core subject areas and are not enrichment programs. With increased graduation requirements, including new algebra requirements, and implementation of the Core 40 curriculum, many students cannot meet these requirements without summer school. Wealthier school corporations can operate summer programs while poorer corporations cannot. The Department of Education requests maintaining the FY '03 appropriation level for summer school programs.

Limited English Proficient (LEP) Students

Since 1999, the first year state dollars were appropriated for this population, the number of LEP students has more than doubled growing from 9,114 to 20,351 students. Non-native English languages spoken in Indiana schools total 212. The per pupil allocation of state funds has shrunk from $75 in 1999-00 to $31.99 in 2002-03.

While these funds are minimal, they do assist in maintaining programs that help students attain literacy in English, another important aspect to closing the achievement gap. These funds should be maintained in the state budget without further reductions.

Early Intervention Programs

In 1997, the Early Intervention Grant program was created as one component of *The Reading and Literacy Initiative for a Better Indiana* – an initiative established to improve the literacy skills and reading achievement of Hoosiers. The Early Intervention Grant program is designed to provide intensive literacy and reading instruction to PreK-Grade 2 students.

Since the inception of this grant, nearly 1,000 elementary teachers have been trained and approximately 30,000 students have received intensive reading

instruction in Reading Recovery, one researched-based literacy program funded by the Early Intervention Reading Program.

Other successful, research-based literacy programs that are funded by the grant include the Waterford Reading Program, Four-Blocks, Success for All, Literacy Collaborative, and Early Success. Some other locally developed literacy programs are funded as well.

Ongoing evaluation of this grant by the Indiana University Education Policy Center continues to show that the grant program has helped to reduce special education referrals and retention rates, improve ISTEP+ scores, as well as support a balanced reading program in Indiana.

More than $10 million in grant requests were received from school corporations this year. Though the $4 million appropriation is clearly not enough to fund this critical program, due to the significant fiscal concerns facing our state, the Department of Education requests the $4 million appropriation be straight-lined.

School Library Printed Materials

State funding of this matching grant program has assisted school corporations to replenish library printed materials resulting in a 10% increase in circulation (a 45% increase in K-8 schools), an increase in reading scores, and higher levels of independent reading among our young students. (*Improving School Libraries and Independent Reading: 1997 - 2002 Impact Evaluation of the K - 12 School Library Printed Materials Grant, July 2002*, Indiana Education Policy Center.)

In K-8 school buildings in 1997, schools purchased 395,645 new books. This preceded the state's contribution of funding for school library printed materials. In 2002, an additional 222,432 books were purchased, an increase of 45%.

Underscoring the need to provide printed materials to school libraries is the fact that Indiana was ranked 48th in the nation in the ratio of K - 8 students to librarians. In the absence of librarians, providing funds for books takes on added meaning.

OTHER POLICY POSITIONS SUPPORTED BY DOE

Resolve Charter School Funding Issues

Three very important charter school funding issues need to be resolved by the legislature this year. The first issue is regarding the first semester start-up and tuition expenses for charter schools. The Indiana Department of Education, per the official opinion of the Attorney General, paid approximately $2 million, from July through December 2002, to charter schools for tuition expenses. Though charter school student enrollment was not factored in the tuition support appropriation by the legislature, this expense has been paid through tuition support funds. This payment has contributed to the need for a deficiency appropriation to be addressed by the legislature during the budget deliberations. Addressing the start-up and first semester operating costs for charter schools are important to ensure program success during the critical first few months of operations.

Second, and equally important, is the impact charter schools are having on school corporation funding, particularly the minimum guarantee districts. Of the approximately 1,250 students enrolled presently in charter schools, 270 students were enrolled in private schools and 33 students were in home schools last school year. None of these students were included in the public school enrollments previously. However, under the charter school law, students in non-public and home schools are considered as resident students of a public school corporation. The law requires the per pupil state support for these students to be sent to the respective charter school and subtracted from the home school corporation. It is estimated that 25-30 percent of the state per pupil dollars directed from home school corporations to charter schools will be for students that were not enrolled in the public schools the previous year. Indianapolis Public Schools alone estimates this dollar amount to be $3 million.

Third, both House Enrolled Act 1108-2002 and House Enrolled Act 1257-2002 established charter schools as "qualified entities" to obtain financing through the Indianapolis and Indiana Bond Banks. Despite the new laws, charter schools have experienced difficulty in borrowing from these agencies. The Indiana Department of Education recommends that any remaining statutory barriers that are preventing charter schools from borrowing funds be resolved.

Maintain Indiana's 180-Day Instructional Calendar

The Indiana Department of Education adamantly opposes any effort to reduce Indiana's 180-day school calendar or change to an hour equivalency policy. Indiana's school day requirements are minimums rather than optimums (they are comparable to requirements in other states; and our school year is on par with 35 other states). The requirement for a minimum number of instructional days is the only way to guarantee that students will meet with each of their teachers for the minimal time needed to acquire essential skills.

The current waiver system, which accommodates single building closures and abbreviated school days, realistically addresses unforeseen circumstances while still providing some protection for learning opportunities. Full-day, corporation-wide closures must be rescheduled. Failure to reschedule a canceled day means that students lose an opportunity to meet with their teachers. Changing to an hour equivalency would be an accounting nightmare for administrators and is not as attractive as it seems when transportation problems and different schedules at different buildings are considered. Indiana State Board of Education rules and Department of Education policies also accommodate time during the school year for parent-teacher conferences, professional development, and school improvement planning.

In considering a change to an hour equivalency system, it is necessary to examine the reasons schools have a day that is longer than the minimum. We assert that these schools want to do more than the minimum for their

students. It could mean that they want a seven-period high school day. It could mean that these schools have created additional enrichment opportunities for their students. All those things would be jeopardized if the minimum were to be changed to an hour equivalency. Invariably, students would lose instructional time.

A problem with adding more minutes to the school day for noninstructional purposes or to waive make-up days at the end of the year is that it would result in exceedingly long days for students, especially those who rely upon school buses for transportation. If a school would like to increase the minutes per day of instructional time to allow for staff development days, it also would have to add extra minutes for cancellations. Excessively long days would be the result.

One reason that the students throughout this country do poorly in areas such as math and science, in comparison to students in Europe and Asia is that they attend school considerably fewer days per year. For example, the instructional calendar in Germany is 188 days, Japan 220 days, and Korea 222 days.

Pursuant to IC 20-10.1-2-1, an emergency policy can be implemented by the Superintendent of Public Instruction in response to extreme weather conditions. The emergency policy, if declared, makes it possible for districts adversely affected by poor weather to request a waiver of penalty for loss of instructional days. The primary objective in issuing the policy is to provide as much instructional time for Indiana's students as possible, while recognizing the importance of offering flexibility to districts where hardships exist. This policy should be maintained.

As we move forward with educational reform in Indiana, we can see progress that has been made as a result of previous reforms like A+. Now is not the time to back away from the foundation that has been established by the Indiana General Assembly. The minimum 180-day school year was one of the first and hardest fought battles at the beginning of the 1987 reform. We must continue to move forward without backing away from the important commitments that have been made.

This General Assembly must move forward with a clear message. We must continue on the path we have chosen, to honor the hard work of our predecessors and not back away from our commitment to the future.

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