



# Education Act 1996

## 1996 CHAPTER 56

### PART IX

#### ANCILLARY FUNCTIONS

#### CHAPTER I

##### ANCILLARY FUNCTIONS OF SECRETARY OF STATE

##### *General functions*

#### 495 Determination of disputes.

- (1) Except where this Act expressly provides otherwise, any dispute between a [<sup>F1</sup>local authority] and the governing body of a school as to the exercise of any power conferred or the performance of any duty imposed by or under this Act may be referred to the Secretary of State (despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the governing body).
- (2) The Secretary of State shall determine any dispute referred to him under subsection (1).
- (3) Any dispute between two or more [<sup>F1</sup>local authorities] as to which of them is responsible for the provision of education for any pupil shall be determined by the Secretary of State.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

*Status: Point in time view as at 07/08/2013.*

*Changes to legislation: Education Act 1996, Chapter I is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Modifications etc. (not altering text)

- C1** S. 495 modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by Education Act 2002 (c. 32), ss. 34(7), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, Sch.
- C3** S. 495(1) extended (1.11.1996) by 1988 c. 40, s. 219(2) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. 1 para.77 (with ss. 1(4), 561, 562, **Sch. 39**))
- C4** S. 495(1)(2) applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 5**

#### 496 Power to prevent unreasonable exercise of functions.

(1) If the Secretary of State is satisfied (either on a complaint by any person or otherwise) that a body to which this section applies have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient (and may do so despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the body).

(2) The bodies to which this section applies are—

- (a) any [<sup>F1</sup>local authority], [<sup>F2</sup>and
- <sup>F3</sup>(b) the governing body of any community, foundation or voluntary school [<sup>F4</sup>, of any community or foundation special school, or of any maintained nursery school] .]

<sup>F5</sup>(3) .....

<sup>F5</sup>(4) .....

[<sup>F6</sup>(5) This section is subject to sections 508I and 509AE (complaints about transport arrangements etc).]

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F2** Word in s. 496(2)(a) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 129(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F3** S. 496(2)(b) substituted (1.9.1999) for s. 496(2)(b)(c) by 1998 c. 31, ss. 140(1), 145(3), **Sch. 30 para. 129(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F4** Words in s. 496(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 168(1), 188(2)
- F5** S. 496(3)(4) omitted (1.8.2012) by virtue of Education Act 2011 (c. 21), ss. 45(2)(b), 82(3); S.I. 2012/1087, art. 2 (with art. 6)
- F6** S. 496(5) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 2 para. 7**; S.I. 2009/3317, art. 2, Sch. (with art. 3); S.I. 2010/303, art. 3, Sch. 2

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#### **Modifications etc. (not altering text)**

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by Education Act 2002 (c. 32), **ss. 34(7), 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, Sch.
- C5** S. 496 applied (with modifications) (10.2.2009) (with application in accordance with reg. 1(2) of the amending S.I.) by The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008 (S.I. 2008/3090), regs. 1(1), **10**
- C6** S. 496 modified (1.11.1996) by 1988 c. 40, **s. 219(3)** (as substituted (1.11.1996) by 1996 c. 56, **ss. 582(1), 583(2)**, Sch. 37 Pt. I para. 77 (with **ss. 1(4), 561, 562, Sch. 39**))  
S. 496 modified (1.9.1998) by 1997 c. 44, **s. 43(4)**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**  
S. 496 modified (1.9.1999) by 1998 c. 31, **s. 44(7)** (with **ss. 138(9), 144(6)**); S.I. 1999/2323, art. 2(1), **Sch. 1**  
S. 496 modified (1.4.2001 (E.), 1.4.2002 (W.)) by 2000 c. 21, **s. 113(3)** (with s. 150); S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2(1), **Sch. Pt. I**
- C7** S. 496 extended (1.11.1996) by 1992 c. 13, **s. 56(3)** (as added (1.11.1996) by 1996 c. 56, **ss. 582(1), 583(2)**, Sch. 37 Pt. I para. 112 (with **ss. 1(4), 561, 562, Sch. 39**))  
S. 496 extended (1.11.1996) by 1992 c. 13, **s. 57(6)(a)** (as substituted (1.11.1996) by 1996 c. 56, **ss. 582(1), 583(2)**, Sch. 37 Pt. I para. 113 (with **ss. 1(4), 561, 562, Sch. 39**))  
S. 496 extended (1.9.1999) by 1998 c. 31, s. 24, **Sch. 4 para. 10** (with **ss. 138(9), 144(6)**); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C8** S. 496: power to apply conferred (1.10.1998) by 1998 c. 31, **s. 105(7)** (with **ss. 138(9), 144(6)**); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**
- C9** S. 496 applied (7.8.2000 for E., 1.11.2000 for W.) by 2000 c. 22, s. 23, **Sch. 1 para. 10(a)**; S.I. 2000/2187, **art. 2(c)**; S.I. 2000/2948, **art. 2**  
S. 496 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Primary Schools) (England) Regulations 2002 (S.I. 2002/2903), regs. 1(2), **8**  
S. 496 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Secondary Schools) (England) Regulations 2002 (S.I. 2002/2904), regs. 1(2), **8** (with reg. 9)
- C10** S. 496 continued (W.) (22.3.2001) by S.I. 2001/1274, **art. 3(4)(a)**
- C11** S. 496 modified by 2000 c. 21, s. 113A(10) (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), **ss. 72(1), 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 4, Sch. Pt. 1)
- C12** S. 497: power to apply conferred by 1998 c. 31, s. 89(2) (as inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), **ss. 48, 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2002/2439, art. 3; S.I. 2006/172, art. 4, Sch.)
- C13** S. 496 applied (E.) (27.2.2007) by The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2007 (S.I. 2007/194), regs. 1(1), **10**
- C14** S. 496 applied (1.4.2007) by Childcare Act 2006 (c. 21), **ss. 15(1), 109(2)**; S.I. 2007/1019, art. 3
- C15** S. 496 applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 6**
- C16** S. 496 applied (31.8.2008) by Childcare Act 2006 (c. 21), **ss. 29(1), 109(2)**; S.I. 2008/17, art. 2(a)
- C17** S. 496 restricted (1.10.2010) by Equality Act 2010 (c. 15), **ss. 87(2), 216(3)** (with **ss. 6(4), 84, 89(2), 205**); S.I. 2010/2317, art. 2(6)(a) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- C18** S. 496 applied (1.10.2010) by Equality Act 2010 (c. 15), **ss. 87(1), 216(3)** (with **ss. 6(4), 84, 89(2), 205**); S.I. 2010/2317, art. 2(6)(a) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- C19** S. 496 applied by 2000 c. 22, Sch. A1 para. 9(a) (as inserted (3.12.2011 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 2 para. 2**; S.I. 2011/2896, art. 2(e))
- C20** S. 496 applied (1.2.2012) by The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (S.I. 2012/8), regs. 1(1), **32** (with reg. 1(3)(4))
- C21** Ss. 496, 497 modified by 2002 c. 32, s. 135C(4) (as inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 9, 82(3)**; S.I. 2012/924, art. 2)
- C22** S. 496: transfer of functions (7.8.2013) by The Transfer of Functions (Youth Leisure-time Activities) Order 2013 (S.I. 2013/1721), arts. 1(2), **2(b)(i)** (with art. 4)

*Status: Point in time view as at 07/08/2013.*

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**C23** S. 496(1) modified (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), arts. 1(2), **3(3)(a)** (with art. 4)

#### 497 General default powers.

- (1) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a body to which this section applies have failed to discharge any duty imposed on them by or for the purposes of this Act, he may make an order—
- (a) declaring the body to be in default in respect of that duty, and
  - (b) giving such directions for the purpose of enforcing the performance of the duty as appear to him to be expedient.
- (2) The bodies to which this section applies are—
- (a) any [<sup>F1</sup>local authority], [<sup>F7</sup>and]
  - <sup>F8</sup>(b) the governing body of any community, foundation or voluntary school [<sup>F9</sup>, of any community or foundation special school, or of any maintained nursery school] .]
- (3) Any directions given under subsection (1)(b) shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.

<sup>F10</sup>(4) .....

<sup>F10</sup>(5) .....

[<sup>F11</sup>(6) This section is subject to sections 508I and 509AE (complaints about transport arrangements etc).]

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F7** Word in s. 497(2)(a) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 130(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F8** S. 497(2)(b)(c) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 130(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F9** Words in s. 497(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 168(2), 188(2)**
- F10** S. 497(4)(5) omitted (1.8.2012) by virtue of Education Act 2011 (c. 21), **ss. 45(2)(c), 82(3)**; S.I. 2012/1087, art. 2 (with art. 6)
- F11** S. 497(6) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 2 para. 8**; S.I. 2009/3317, art. 2, Sch. (with art. 3); S.I. 2010/303, art. 3, Sch. 2

#### Modifications etc. (not altering text)

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by Education Act 2002 (c. 32), **ss. 34(7), 216(4)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, Sch.
- C12** S. 497: power to apply conferred by 1998 c. 31, s. 89(2) (as inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), **ss. 48, 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2006/172, art. 4, Sch.)
- C21** Ss. 496, 497 modified by 2002 c. 32, s. 135C(4) (as inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 9, 82(3)**; S.I. 2012/924, art. 2)

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- C24** S. 497 applied (with modifications) (10.2.2009) (with application in accordance with reg. 1(2) of the amending S.I.) by The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2008 (S.I. 2008/3090), regs. 1(1), **10**
- C25** S. 497 modified (1.11.1996) by 1988 c. 40, s. **219(3)** (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. 1 para. 77 (with ss. 1(4), 561, 562, **Sch. 39**))  
S. 497 modified (1.9.1998) by 1997 c. 44, s. **43(4)**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**  
S. 497 modified (1.9.1999) by 1998 c. 31, s. **44(7)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C26** S. 497: power to apply conferred (1.10.1998) by 1998 c. 31, s. **105(7)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**
- C27** S. 497 applied (3.12.1998) by S.I. 1998/2876, **reg. 21**  
S. 497 applied (7.8.2000 (E.), 1.11.2000 (W.)) by 2000 c. 22, s. 23, **Sch. 1 para. 10(b)**; S.I. 2000/2187, **art. 2(c)**, S.I. 2000/2948, art. 2  
S. 497 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Primary Schools) (England) Regulations 2002 (S.I. 2002/2903), regs. 1(2), **8**  
S. 497 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Secondary Schools) (England) Regulations 2002 (S.I. 2002/2904), regs. 1(2), **8** (with reg. 9)
- C28** S. 497 extended (1.9.1999) by 1998 c. 31, s. 24, **Sch. 4 para. 10** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C29** S. 497 modified by 2000 c. 21, s. 113A(10) (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), ss. **72(1)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 4, Sch. Pt. 1)
- C30** S. 497 applied (E.) (27.2.2007) by The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2007 (S.I. 2007/194), regs. 1(1), **10**
- C31** S. 497 applied (1.4.2007) by Childcare Act 2006 (c. 21), ss. **15(2)**, 109(2); S.I. 2007/1019, art. 3
- C32** S. 497 modified (E.) (25.5.2007) by The Education (Supply of Information about the School Workforce) (England) Regulations 2007 (S.I. 2007/1264), regs. 1(1), **10**
- C33** S. 497 modified (E.) (1.9.2007) by The Education (Supply of Information about the School Workforce) (No.2) (England) Regulations 2007 (S.I. 2007/2260), regs. 1(1), **11**
- C34** S. 497 applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 6**
- C35** S. 497 applied (31.8.2008) by Childcare Act 2006 (c. 21), ss. **29(2)**, 109(2); S.I. 2008/17, art. 2(a)
- C36** S. 497 restricted (1.10.2010) by Equality Act 2010 (c. 15), ss. **87(2)**, 216(3) (with ss. 6(4), 84, 89(2), 205); S.I. 2010/2317, art. 2(6)(a) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- C37** S. 497 applied (1.10.2010) by Equality Act 2010 (c. 15), ss. **87(1)**, 216(3) (with ss. 6(4), 84, 89(2), 205); S.I. 2010/2317, art. 2(6)(a) (as amended (1.10.2010) by S.I. 2010/2337, art. 2)
- C38** S. 497 applied by 2000 c. 22, Sch. A1 para. 9(b) (as inserted (3.12.2011 for specified purposes, 4.5.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 2 para. 2**; S.I. 2011/2896, art. 2(e); S.I. 2012/1008, art. 4(b))
- C39** S. 497 applied (1.2.2012) by The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (S.I. 2012/8), regs. 1(1), **32** (with reg. 1(3)(4))
- C40** S. 497: transfer of functions (7.8.2013) by The Transfer of Functions (Youth Leisure-time Activities) Order 2013 (S.I. 2013/1721), arts. 1(2), **2(b)(ii)** (with art. 4)
- C41** S. 497(1)(3) modified (7.8.2013) by The Transfer of Functions (Youth Leisure-time Activities) Order 2013 (S.I. 2013/1721), arts. 1(2), **3(3)(b)** (with art. 4)

[<sup>F13</sup>497A Power to secure proper performance of [<sup>F12</sup>local authority's education functions]

[<sup>F14</sup>(1) This section applies to a local authority's education functions.]

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- (2) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a [<sup>F1</sup>local authority] are failing in any respect to perform any function to which this section applies to an adequate standard (or at all), he may exercise his powers under subsection ([<sup>F15</sup>(4), (4A) or (4B)]).
- [ The Secretary of State may also exercise his powers under subsection (4), (4A) or <sup>F16</sup>(2A) (4B) where—
- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a [<sup>F1</sup>local authority] in respect of any function to which this section applies, and
  - (b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all).]
- (3) <sup>F17</sup> .....
- [<sup>F18</sup>(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.]
- [ The Secretary of State may under this subsection direct that the function shall be <sup>F19</sup>(4A) exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of the function.
- (4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard.]
- [<sup>F20</sup>(5) Where the Secretary of State considers it expedient that—
- (a) in the case of directions given under subsection (4), the person specified in the directions, or
  - (b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him,
- should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.]
- (6) Any direction under this section may either—
- (a) have effect for an indefinite period until revoked by the Secretary of State, or
  - [<sup>F21</sup>(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.]
- (7) Any direction given under subsection [<sup>F22</sup>(4), (4A) or (4B)] shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.]

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[<sup>F23</sup>(8) This section is subject to sections 508I and 509AE (complaints about transport arrangements etc).]

### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F12** Words in s. 497A title substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), art. 1, **Sch. 2 para. 7(9)(a)**
- F13** S. 497A inserted (1.10.1998) by [1998 c. 31, s. 8](#) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch.1 Pt. I**.
- F14** S. 497A(1) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), art. 1, **Sch. 2 para. 7(9)(b)**
- F15** Words in s. 497A(2) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(3), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F16** S. 497A(2A) inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(4), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F17** S. 497A(3) repealed (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(5), 216(4), Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F18** S. 497A(4) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(6), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F19** S. 497A(4A)(4B) inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(7), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F20** S. 497A(5) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(8), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F21** S. 497A(6)(b) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(9), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F22** Words in s. 497A(7) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002](#) (c. 32), **ss. 60(10), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F23** S. 497A(8) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), **Sch. 2 para. 9**; S.I. 2009/3317, art. 2, Sch. (with art. 3); S.I. 2010/303, art. 3, Sch. 2

### Modifications etc. (not altering text)

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by [Education Act 2002](#) (c. 32), **ss. 34(7), 216(4)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, Sch.
- C42** S. 497A applied (with modifications) (1.3.2005 for E.) by [Children Act 2004](#) (c. 31), **s. 50(1)-(3), (5)(6), 67(7)(e)**; S.I. 2005/394, art. 2(1)(f)
- C43** S. 497A modified (1.9.1999) by [1998 c. 31, s. 44\(7\)](#) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C44** S. 497A applied (with modifications) (1.4.2007) by [Childcare Act 2006](#) (c. 21), **s. 15(3)(5)(6), 109(2)**; S.I. 2007/1019, art. 3
- C45** S. 497A applied (with modifications) (31.8.2008) by [Childcare Act 2006](#) (c. 21), **s. 29(3)(5)(6), 109(2)**; S.I. 2008/17, art. 2(a)
- C46** S. 497A: transfer of functions (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013](#) (S.I. 2013/1721), arts. 1(2), **2(b)(iii)** (with art. 4)
- C47** S. 497A(2)(3)-(4B)(6)(7) modified (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013](#) (S.I. 2013/1721), arts. 1(2), **3(3)(c)** (with art. 4)

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**[<sup>F24</sup>497A] Power to secure proper performance: duty of authority where directions contemplated**

Where, in relation to any function to which section 497A applies, the Secretary of State—

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and
- (b) has notified the [<sup>F1</sup>local authority] that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.]

**Textual Amendments**

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F24** S. 497AA inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 61, 216(4) (with ss. 210(8), 214(4)); [S.I. 2002/2002](#), art. 3; [S.I. 2003/1718](#), art. 4, Sch. Pt. I

**Modifications etc. (not altering text)**

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 34(7), 216(4)** (with ss. 210(8), 214(4)); [S.I. 2003/124](#), art. 4; [S.I. 2005/2910](#), art. 4, Sch.
- C48** S. 497AA applied (with modifications) (1.3.2005 for E.; 1.10.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **s. 50(4)(5), 67(7)(e)**; [S.I. 2005/394](#), art. 2(1)(f); [S.I. 2006/885](#), art. 4(e)
- C49** S. 497AA applied (with modifications) (1.4.2007) by [Childcare Act 2006 \(c. 21\)](#), **s. 15(4)(5), 109(2)**; [S.I. 2007/1019](#), art. 3
- C50** S. 497AA applied (with modifications) (31.8.2008) by [Childcare Act 2006 \(c. 21\)](#), **s. 29(4)(5), 109(2)**; [S.I. 2008/17](#), art. 2(a)
- C51** S. 497AA: transfer of functions (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), arts. 1(2), **2(b)(iv)** (with art. 4)
- C52** S. 497AA modified (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), arts. 1(2), **3(3)(d)** (with art. 4)

**[<sup>F25</sup>497B] Power to secure proper performance: further provisions.**

- (1) Where the Secretary of State gives directions under [<sup>F26</sup>section 497A(4) or (4A) to a [<sup>F1</sup>local authority] or to an officer of such an authority, the specified person] shall, in the performance of the function or functions specified in the directions, be entitled to exercise the powers conferred by this section.

[ In this section “the specified person” means—

- <sup>F27</sup>(1A) (a) in relation to directions under section 497A(4), the person specified in the directions, and
- (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.]

- (2) The specified person shall have at all reasonable times—
- (a) a right of entry to the premises of the authority, and



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- (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the performance of the specified function or functions.
- (3) In exercising the right to inspect records or other documents under subsection (2), the specified person—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).
- (4) Without prejudice to subsection (2), the authority shall give the specified person all assistance in connection with the performance of the specified function or functions which they are reasonably able to give.
- (5) Subsection (2) shall apply in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
- (a) the governing body of any such school shall give the specified person all assistance in connection with the exercise of his functions which they are reasonably able to give; and
  - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (6) Any reference in this section to the specified person includes a reference to any person assisting him in the performance of the specified function or functions.
- (7) In this section “document” and “records” each include information recorded in any form.]

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))
- F25** S. 497B inserted (1.10.1998) by [1998 c. 31, s. 8](#) (with [ss. 138\(9\), 144\(6\)](#)); [S.I. 1998/2212, art. 2\(1\)](#), **Sch. 1 Pt. I**
- F26** Words in s. 497B(1) substituted (1.10.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 62(3), 216(4) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#); [S.I. 2003/1718, art. 4, Sch. Pt. I](#)
- F27** S. 497B(1A) inserted (1.10.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 62(3), 216(4) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#); [S.I. 2003/1718, art. 4, Sch. Pt. I](#)

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**Modifications etc. (not altering text)**

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 34\(7\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2003/124](#), [art. 4](#); [S.I. 2005/2910](#), [art. 4](#), [Sch.](#)
- C53** S. 497B applied (with modifications) (1.3.2005 for E.; 1.10.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [s. 50\(4\)\(5\)](#), [67\(7\)\(e\)](#); [S.I. 2005/394](#), [art. 2\(1\)\(f\)](#); [S.I. 2006/885](#), [art. 4\(e\)](#)
- C54** S. 497B modified (12.1.1999) by [S.I. 1998/3217](#), [reg.2\(b\)](#)  
S. 497B modified (1.9.1999) by [1998 c. 31](#), [s. 44\(7\)](#), [145\(3\)](#) (with [ss. 138\(9\)](#), [144\(6\)](#))
- C55** S. 497B applied (with modifications) (1.4.2007) by [Childcare Act 2006 \(c. 21\)](#), [s. 15\(4\)\(5\)](#), [109\(2\)](#); [S.I. 2007/1019](#), [art. 3](#)
- C56** S. 497B applied (with modifications) (31.8.2008) by [Childcare Act 2006 \(c. 21\)](#), [s. 29\(4\)\(5\)](#), [109\(2\)](#); [S.I. 2008/17](#), [art. 2\(a\)](#)
- C57** S. 497B(1)(1A) modified (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), [arts. 1\(2\)](#), [3\(3\)\(e\)](#) (with [art. 4](#))
- C58** S. 497B(3) applied (1.10.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 64\(4\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2003/1718](#), [art. 4](#), [Sch. Pt. I](#)

*Appointment of governors, etc.*

**498 Powers where no properly constituted governing body.**

- (1) Where it appears to the Secretary of State that, by reason of the default of any person, there is no properly constituted governing body of a school to which this section applies, the Secretary of State—
- (a) may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted governing body of that school, and
  - (b) may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.

<sup>F28</sup> [(2) This section applies to any community, foundation or voluntary school or any community or foundation special school.]

**Textual Amendments**

- F28** S. 498(2) substituted (1.9.1999) by [1998 c. 31](#), [s. 140\(1\)](#), [Sch. 30 para.131](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#).

**Modifications etc. (not altering text)**

- C2** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 34\(7\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2003/124](#), [art. 4](#); [S.I. 2005/2910](#), [art. 4](#), [Sch.](#)
- C59** S. 498 extended (1.11.1996) by [1988 c. 40](#), [s. 219\(4\)](#) (as substituted (1.11.1996) by [1996 c. 56](#), [ss. 582\(1\)](#), [583\(2\)](#), [Sch. 37 Pt. I para. 77](#) (with [ss. 1\(4\)](#), [561](#), [562](#), [Sch. 39](#))).
- C60** S. 498 modified (1.9.1999) by [1998 c. 31](#), [s. 44\(7\)](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#)

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### *Membership of education committees*

#### **499 Power to direct appointment of members of education committees.**

- (1) Subsection (2) applies to any local authorities which in accordance with section 102(1) of the <sup>M1</sup>Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any [<sup>F29</sup>of their education functions] .
- (2) The Secretary of State may by directions to any local authorities to which this subsection applies require—
  - (a) every such committee, or
  - (b) any such committee of a description specified in the direction,to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts.
- (3) Subsection (4) applies to any two or more local authorities which in accordance with section 102(1) of the <sup>M2</sup>Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any [<sup>F30</sup>of their education functions] .
- (4) The Secretary of State may by directions to any local authorities to which this subsection applies require—
  - (a) every such committee, or
  - (b) any such committee of a description specified in the direction,to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts or in such area as may be specified in the direction.
- (5) The power of the Secretary of State to give directions under subsection (2) or (4) shall be exercisable in relation to any sub-committees which—
  - (a) are appointed by the authorities concerned or any such committee as is mentioned in that subsection, and
  - (b) are so appointed wholly or partly for the purpose of discharging the authorities' [<sup>F31</sup>education functions],as it is exercisable in relation to the committees themselves.
- <sup>F32</sup>[(6) Regulations may require—
  - (a) any such committee as is mentioned in subsection (1) or (3), and
  - (b) any sub-committee appointed by any authorities within subsection (1) or (3), or by any committee within paragraph (a) of this subsection, for the purpose mentioned in subsection (5)(b),to include one or more persons elected, in accordance with the regulations, as representatives of parent governors at maintained schools in relation to which the committee or sub-committee acts.
- (7) Regulations may make provision for—
  - (a) the number of persons who are to be elected for the purposes of subsection (6) in the case of any [<sup>F1</sup>local authority];
  - (b) the procedure to be followed in connection with the election of such persons and the persons who are entitled to vote at such an election;

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- (c) the circumstances in which persons are qualified or disqualified for being so elected or for holding office once elected;
  - (d) the term of office of persons so elected and their voting rights;
  - (e) the application to any such committee or sub-committee, with or without any modification, of any provision made by or under any other enactment and relating to committees or (as the case may be) sub-committees of a local authority;
  - (f) such other matters connected with such elections or persons so elected as the Secretary of State considers appropriate.
- (8) Regulations may also make provision—
- (a) enabling the Secretary of State to determine, where he considers it expedient to do so in view of the small number of maintained schools in relation to which a committee or sub-committee acts, that the requirement imposed on the committee or sub-committee by virtue of subsection (6) is to have effect as if it referred to representatives of parents of registered pupils (rather than representatives of parent governors) at those schools;
  - (b) for any regulations under subsection (7) to have effect, where the Secretary of State makes any such determination, with such modifications as may be prescribed.
- [<sup>F33</sup>(9) In subsections (6) and (8)—
- (a) “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, and
  - (b) “parent governor” means a governor elected or appointed as a parent governor under regulations made under section 19 of the Education Act 2002 (governing bodies).]]

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F29** Words in s. 499(1) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 7(10)(a)**
- F30** Words in s. 499(3) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 7(10)(b)**
- F31** Words in s. 499(5)(b) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 7(10)(c)**
- F32** S. 499(6)-(9) added (1.10.1998) by 1998 c. 31, **s.9** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**
- F33** S. 499(9) substituted (1.9.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 50** (with ss. 210(8), 214(4)); S.I. 2003/2071, art. 2 (with art. 2(2)); S.I. 2005/2910, art. 4, Sch.

#### Modifications etc. (not altering text)

- C61** S. 499(9) savings for effects of 2002 c. 32, Sch. 21 para. 50 (W.) (31.10.2005) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2005 \(S.I. 2005/2913\)](#), regs. 1(1), **9**

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**Marginal Citations**

- M1** 1972 c. 70.
- M2** 1972 c. 70.

*Rationalisation of school places*

**F34** **500** .....

**Textual Amendments**

- F34** S. 500 repealed (1.4.1999 to the extent that it relates to s. 500(2) and words in s. 502(3)(4) and 1.9.1999 otherwise) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; S.I. 1999/2323, art. 2(1), **Sch. 1**

**F35** **501** .....

**Textual Amendments**

- F35** S. 501 repealed (1.4.1999 to the extent that it relates to s. 501(1)(a) and 1.9.1999 otherwise) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; S.I. 1999/2323, art. 2(1), **Sch. 1**

**F36** **502** .....

**Textual Amendments**

- F36** S. 502 repealed (1.4.1999 to the extent that it relates to s. 502(6) and 1.9.1999 otherwise) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/1016, Art. 2(1), **Sch. 1**; S.I. 1999/2323, art. 2(1), **Sch. 1**

**F37** **503** .....

**Textual Amendments**

- F37** S. 503 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F38** **504** .....

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**Textual Amendments**

**F38** S. 504 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F39** **505** .....

**Textual Amendments**

**F39** S. 505 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3) Sch. 30 para. 132, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

*Medical examinations*

**506 Power to require medical examination of pupils.**

- (1) Where—
- (a) a question is referred to the Secretary of State under section 442(3) or 495, and
  - (b) in his opinion the examination of any pupil by a registered medical practitioner appointed by him for the purpose would assist in determining the question,
- he may serve a notice on the parent of that pupil requiring the parent to present the pupil for examination by such a practitioner.
- (2) Any parent who without reasonable excuse fails to comply with any requirements of a notice served on him under subsection (1) is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Local inquiries*

**F40** **507 Power to direct local inquiries.**

.....

**Textual Amendments**

**F40** S. 507 repealed (7.6.2005) by **Inquiries Act 2005 (c. 12)**, s. 51(1), **Sch. 2 para. 15, Sch. 3** (with ss. 44, 50); S.I. 2005/1432, art. 2

**Modifications etc. (not altering text)**

- C62** S. 507 extended (1.11.1996) by 1992 c. 13, s. **57(6)(b)** (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 113** (with ss. 1(4), 561, 562, **Sch. 39**)
- C63** S. 507 applied (28.7.2000 for certain purposes otherwise 1.1.2001 (W.) 1.4.2001 (E.)) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 34** (with s. 150)); S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3)

**Status:**

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**Changes to legislation:**

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