

## Background Checks, Screenings, and Ongoing Responsibility for Employees to Disclose Criminal Convictions

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[UVA Human Resources](#)

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[Vice President and Chief Human Resources Officer](#)

**Applies To**

Academic Division The Medical Center The College at Wise

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### Reason for Policy

The University of Virginia has a vital interest in providing a safe environment for its students, patients, visitors, and employees. Background checks and employees' disclosures of criminal convictions help University officials in their efforts to minimize, evaluate, and respond to risk to the University community in a timely manner.

## **Definition of Terms**

### **Background Check**

The process used to verify that an individual's past, especially their education, credentials, work experience, and criminal history is suitable for employment with the University.

### **Candidate**

An individual who has applied for employment with the University or is already an employee but is applying for promotion or transfer to another position.

### **Classified Staff Employees**

Those salaried, non-faculty employees hired prior to July 1, 2006, and subject to the Virginia Personnel Act (T. 2.2, Ch. 29, Code of Virginia, §§ 2.2-2900 et. seq.).

### **Conditional Offer**

An offer of employment made to a final candidate that is contingent on the completion of the background check inquiry and verification that the candidate is eligible for employment in the position.

### **Contingent Hire**

A decision to allow the selected candidate to begin work prior to the completion of a background check.

### **Credential and Reference Verification**

The process of checking and verifying a candidate's references, educational and employment history, and other information pursuant to the provisions of this policy.

### **Criminal Background Check**

The process used to obtain any information pertaining to crimes for which an individual has been charged, tried, or convicted.

### **Graduate Medical Education (GME) Trainee**

An individual who is employed by the University of Virginia Medical Center as a trainee in an Accreditation Council for Graduate Medical Education (ACGME) accredited or non-ACGME accredited post-graduate training program.

### **Minor (child)**

An individual under the age of 18.

### **Professional Research Staff**

Professional staff principally engaged in research and appointed to limited terms of employment at the University. Positions include postdoctoral research associates, research scientists, senior scientists, and principal

scientists.

## **Selected Candidate**

The finalist for a position who will be or has been offered the position or volunteer role, contingent upon the successful completion and results of the background check inquiry and verification that the Candidate is eligible for employment in the position.

## **Student(s)**

An individual who either has been admitted to a degree or certificate program at the University or has received permission to enroll and is registered for coursework (including credit or non-credit) at the University during any given academic session (including fall or spring semesters, Summer Session, or January Term).

## **Wage Employee**

An employee whose terms and conditions of employment stipulate an hourly rate of pay rather than a fixed salary and is paid on an hourly basis for actual hours worked. Wage employees are not eligible for leave or other benefits. These employees are not covered by the Virginia Personnel Act and are non-exempt for purposes of overtime compensation as defined by the Fair Labor Standards Act.

## **Policy Statement**

The University requires that background checks be completed in a manner that is compliant with applicable federal and state law on all employees and others covered by this policy as part of the hiring/selection process (see [Section I, Who is Covered by this Policy](#)). The nature and scope of the background check is determined by the University and will be appropriate to the position. In addition, the University requires its employees and others covered by this policy, including those hired or engaged prior to the effective date of this policy, to disclose any criminal conviction within five calendar days of the occurrence (see [Section XI, Ongoing Responsibility to Disclose Criminal Convictions](#)). In consultation with the Office of University Counsel, the University may conduct a background check on a current employee if information becomes available that brings into question whether a particular employee is compliant with this policy.

It is important to note that this policy establishes the minimum background check requirements for the University. In certain cases, select schools/departments/units may have a compelling business need to require heightened background check requirements based on specific role. In those situations, the more inclusive policy is the standard that the school/department/unit will apply.

Employees will be notified annually of their ongoing responsibility to self-disclose criminal convictions.

### **I. Who Is Covered by this Policy:**

- Classified and University staff employees.
- Faculty, including visiting scholars and visiting faculty.
- Medical Center employees (as defined in Medical Center Policy [HR201: Employment Categories](#)).
- Professional research staff, including post-doctoral research associates.
- Non-employee post-doctoral fellows.
- Wage employees, including those paid on an hourly basis in the categories of classified and University staff, faculty, and professional research staff.

- UVA Temps.
- Students whose employment/academic work, or internships/practica through the University will involve providing clinical services to and/or direct supervision of minors who are not enrolled as students at the University or will require access to Controlled Unclassified Information subject to NIST SP 800-171 safeguarding requirements.
- Associated individuals and volunteers who interact with minors on Grounds or under the authority of the University at other locations (see [HRM-050: Protection of Minors and Reporting Abuse](#)).

## **II. Reporting Requirements for Job Applicants:**

Any position that requires applicants to disclose criminal convictions as part of the application process will be identified with this requirement in the job posting. Applicant self-disclosures for these positions must include the following:

- The date of each criminal conviction.
- Whether the criminal conviction involved a felony or misdemeanor.
- The county, state, and country in which the criminal conviction occurred.

For positions that require applicant self-disclosure, if the applicant does not provide answers for the criminal conviction question(s), the application will not be considered further.

## **III. Evaluating Self-Disclosures Provided by Job Applicants:**

Applicants who disclose criminal convictions that are defined by state law as a barrier to employment (a/k/a “Barrier Crimes”), in specific types of positions (see [Section VII. Other Screenings and Disclosures Required by Law](#)) will not be considered further. For all other disclosures made on applications for relevant positions, criminal convictions will be reviewed by UVA Human Resources to determine whether the application will be considered, taking into account the date of conviction(s), subsequent work history, and other relevant factors.

## **IV. Evaluation of Criminal Convictions:**

Criminal convictions, whether identified through the background check screening process, through an employee’s self-disclosure, or through an administratively initiated background check of an existing employee, may not be an automatic bar or end to employment. Factors considered when evaluating criminal convictions include: a) the nature, gravity, and risk(s) associated with the offense(s) reported and any pattern of behavior; b) time since conviction, completion of sentence, or any other remediation; c) relevance to the position for which the candidate is being considered/employee is performing; and d) discrepancies between the background check and what the employee/candidate self-disclosed.

Candidates/employees will be given the opportunity to explain any discrepancies or omissions before a final decision is made regarding their hire/ongoing employment. Providing inaccurate, incomplete, or falsified information in response to the requirements of this policy may result in the candidate being deemed ineligible for hire or in the employee being terminated. Later discovery of false or misleading information related to the criminal background check may subject the employee to disciplinary action, up to and including termination.

When a finding may adversely impact an individual’s eligibility to be engaged by the University in a specific position, the candidate or employee will be notified of the decision by the appropriate UVA Human Resources professional and provided access to the appropriate information that the University has received (see [Procedures](#)). In the event the determination relates to a faculty member, the provost or

designee will confer with the appropriate dean, and may confer with the vice president and chief human resources officer (CHRO) or designee before making a final determination. The provost will make the final determination.

For all University and classified staff employees and Medical Center employees, the vice president and chief human resources officer or designee will make the final determination in consultation with the appropriate executive vice president or the executive vice president's designee.

## **V. Background Check Inquiries:**

Background checks will be conducted only on the selected candidates who have accepted a conditional offer of employment and will be used to evaluate the candidates' eligibility and fitness to be employed at the University. Background checks will not be used to discriminate on any basis specified in the University's [Notice of Non-Discrimination and Equal Opportunity](#).

As part of the conditional offer of employment, the candidate will be asked to complete the requisite documentation authorizing the University to conduct a background check inquiry. Failure to submit the completed authorization within the established period may delay the candidate's start date and/or result in the withdrawal of the conditional offer of employment.

Consent to the background check inquiry is a condition of employment at the University. If the selected candidate is a minor, the individual must obtain permission from their parent or legal guardian before a background check can be performed. Specifically, the minor's parent or legal guardian must sign an authorization providing parental consent for the pre-employment background check and return the same to UVA Human Resources (Talent Support). Refusal to consent to a pre-employment background check will result in the immediate withdrawal of the conditional offer of employment.

Once the selected candidate has been identified and a conditional offer of employment has been extended, the University will initiate background check inquiries (to include credential and reference verification) with third-party vendors, the Virginia State Police, and other organizations at the University's sole discretion.

Background check inquiries may include any of the following:

- Criminal history conducted nationwide as well as in all U.S. states, counties, or regions where the candidate has resided.
- International criminal history (when possible, for candidates who have resided outside the United States).
- Employment verification.
- Diploma/degree validation (including evaluation/validation of foreign degrees) if required for employment or licensure. (For exceptions, see [PROV-029: Faculty Appointment Types and Titles, Section II.A.](#))
- Sexual Offender Registry.
- Professional licensure verification (typically only for positions requiring licensure, such as health care practitioners).
- Department of Motor Vehicles (DMV) records (typically only for positions that require routine operation of motor vehicles owned by the University (see policy [PRM-014: Use and Management of University-Owned Vehicles](#))).

- If required by external funding agencies or for high-risk positions, interviews with sources such as supervisors, associates, public record, or various federal, state, and local agencies.
- Examination of federal debarment lists, as required by federal and state law.
- Credit history (for positions with financial responsibilities).
- Other screenings required by law (see [Section VII, Other Screenings and Disclosures Required by Law](#)) or required by a school/department/unit specific to a position.

The results of the background check will be evaluated by UVA Human Resources in accordance with [Section IV. Evaluation of Criminal Convictions](#), to determine the selected candidate's eligibility for employment in the position. In the event the selected candidate is determined to be ineligible for the position, the conditional offer of employment will be withdrawn (see [Procedures](#)).

In addition to the background check described above, some positions may require post-offer pre-employment screening, such as a functional capacity and/or medical examination. These examinations are completed after a conditional job offer has been made and before employment commences. Individuals who do not complete these examinations successfully are notified in writing by UVA Human Resources. Employee Health is responsible for reviewing and assessing all medical information supplied by third party vendors and/or healthcare providers.

Upon successful completion of all required background checks, selected candidates will be notified that they are governed by the ongoing responsibility to disclose criminal convictions (see [Section XI, Ongoing Responsibility to Disclose Criminal Convictions](#)) and no further background checks are required before the candidate begins work.

Employees who accept a position (e.g., promotion, new assignment, or reclassification) in their current school/department/unit or another school/department/unit are subject to a criminal background check if (a) one has never been completed by the University or (b) it is a requirement of the position (e.g., position of trust, safety-sensitive).

Former employees, including retirees, are subject to a background check if the break in service is three months or more or after any break in service if the former employee has never had a background check completed by the University.

Employees who are being promoted, transferred, or reassigned to a position in a home health, hospice/palliative unit, inpatient psychiatry unit, pre-hospital emergency medical services, or a position that has been identified as high-risk/sensitive (as described in [Section VIII. Positions Identified as High-Risk/Sensitive](#)), will be subject to a fingerprint-based criminal background check unless the employee previously underwent a fingerprint-based criminal background check in the same school/department/unit.

Current employees whose employment record remains active in the University's human resources management system (HRMS) during a period of non-pay are not required to undergo a new background check upon resuming paid service. This includes employees on approved leaves of absence and teaching faculty who do not teach for up to two consecutive terms.

New employee hires, paid and unpaid faculty, visiting scholars, volunteers, scientists, and researchers may only begin work at the University after the designated hiring official has been notified that the required components of the background check process have been completed and properly validated (see [Section IX. Contingent Hires](#)).



## **VI. Confidentiality of Background Check Results:**

All background check results will be maintained confidentially by UVA Human Resources in accordance with policy [IRM-017: Records Management](#). Background check results will not be disclosed except to the extent necessary on a need-to-know basis only to authorized/appropriate University representatives, whose University responsibilities require the existence of a business justification for access to the background check results. Hiring managers do not receive details of the background check, only a notification of whether the results do or do not meet University guidelines.

## **VII. Other Screenings and Disclosures Required by Law:**

Except as stipulated below, criminal convictions are not an automatic bar to employment at the University (see [Section II, Evaluation of Criminal Convictions](#)). The provisions of this section apply to convictions disclosed by candidates/employees or identified through background check inquiries.

Candidates/employees with convictions for crimes listed in *Va. Code Ann. § 19.2-392.02, et seq.* (“Barrier Crimes”), are typically barred from employment at the University but may be eligible for some types of employment, depending on the type of conviction, date of conviction(s), frequency of offense(s), subsequent work history, and the nature of the job for which the candidate is applying.

### **A. Home Health or Hospice/Palliative Units:**

As required by *Va. Code Ann. § 32.1-162.9:1*, candidates with convictions for crimes listed in *Va. Code Ann. § 19.2-392.02, et seq.* (“Barrier Crimes”), will not be considered for employment in home health or hospice/palliative units except as provided in that statute. Current UVA employees will be required to disclose all criminal convictions on their application when applying for employment in home health or hospice/palliative unit positions.

### **B. Inpatient Psychiatry Units:**

As required by *Va. Code Ann. § 37.2-416*, candidates with criminal convictions listed in *Va. Code Ann. § 19.2-392.02, et seq.* (“Barrier Crimes”), will not be considered for employment that includes responsibility for treatment, case management, health, safety, development or well-being of patients assigned to inpatient psychiatry units (“Psychiatry Unit Employment”). Current UVA employees will be required to disclose all criminal convictions on their application when applying for Psychiatry Unit Employment.

Selected candidates for Psychiatry Unit Employment must consent to be fingerprinted and sign the disclosure and authorization statements required for a nationwide criminal records check. For selected candidates who fail to sign and return the required disclosure and authorization statements and/or provide fingerprints, any conditional offer of employment, promotion, or transfer will be rescinded, and any current employment with the University may be terminated.

If the background check inquiry reveals no convictions for crimes listed in *Va. Code Ann. § 19.2-392.02, et seq.* (“Barrier Crimes”), selected candidates may begin Psychiatry Unit Employment, subject to the results of an additional background check inquiry conducted through a national criminal history registry maintained by Virginia’s Department of Behavioral Health and Developmental Services’ (DBHDS) Background Investigation Unit (BIU), to confirm that the selected candidates’ national records contain no history of crimes listed in *Va. Code Ann. § 19.2-*

392.02, *et seq.* (“Barrier Crimes”). Candidates for Psychiatry Unit Employment must also provide written consent and the personal information necessary to obtain a search of the Registry of Founded Complaints of Child Abuse and Neglect (“Central Registry”) maintained by the Virginia Department of Social Services (DSS) pursuant to *Va. Code Ann. § 63.2-1515*. If the additional nationwide criminal background check or the DSS Central Registry search reveals a history of crimes listed in *Va. Code Ann. § 19.2-392.02, et seq.* (“Barrier Crimes”), or a history of founded complaints, the conditional offer of employment will be withdrawn.

Contract workers and students who provide services related to treatment, case management, health, safety, development, or well-being of patients on the inpatient psychiatry units, are subject to the same requirements detailed above (including fingerprinting, nationwide criminal records search, and DBHDS disclosures).

**C. Pre-Hospital Emergency Medical Services:**

In compliance with *Va. Code Ann. § 32.1-111.5*, selected candidates for employment in a pre-hospital emergency services position must submit fingerprints and complete a disclosure form for submission to the Federal Bureau of Investigation (FBI) for the purpose of conducting a state and national criminal history check. The results of these checks will be reviewed by the Virginia Office of Emergency Medical Services (EMS) to determine if selected candidates are eligible for certification and/or affiliation with an EMS agency. If a selected candidate is found to be ineligible, the conditional offer of employment will be withdrawn.

**D. Debarment Checks:**

the University nor its Medical Center will knowingly employ or credential any individuals or entities who are under federal exclusion or debarment or who are excluded from participation in federal healthcare programs or convicted of a criminal offense related to the provision of healthcare items or services for which one may be excluded under *42 U.S.C. § 1320a-7* (an “excludable crime”).

In order to avoid hiring, employing, granting clinical privileges to, or retaining any individual excluded or debarred from federal programs or parties excluded from federal procurement, the University conducts pre-employment and ongoing routine screening checks for the Medical Center employees, graduate medical education (GME) trainees, clinical staff, and Allied Health professionals against the List of Excluded Individuals /Entities (LEIE) maintained by the U.S. Department of Health and Human Services’ Office of the Inspector General (OIG), the General Services Administrations’ (GSA) System for Award Management (SAM), the U.S. Food and Drug Administration’s (FDA) Debarment List (Drug Product Applications/Drug Imports/Food Imports), and the U.S. Treasury Office of Foreign Asset Control (OFAC) Sanctions List. These entities provide lists of excluded or debarred individuals or entities (“Exclusion Lists”).

Prospective University and Medical Center employees (including GME trainees) are also required to disclose whether they are ineligible or excluded from federal programs or have been convicted of excludable crimes. Any prospective employee appearing on any of the above-mentioned Exclusion Lists will be prohibited from employment or contracting with the University or the Medical Center.

Current Medical Center employees (including GME trainees) who appear on any of the above-mentioned Exclusion Lists are subject to suspension and/or termination in accordance with



applicable University and Medical Center policies.

**E. Occupational Health:**

Certain employees are required to undergo screening, inoculations, and/or tests necessary for infection control and patient safety as per Health System policy [Occupational Health Screening and Maintenance](#). Such employees are also required to undergo any additional screening, vaccinations, or tests as may be determined by the Medical Center Hospital Epidemiologist to be necessary for infection control and patient safety. Employees who do not complete these required screenings, vaccinations, and/or any other immunizations may be subject to disciplinary action, up to and including termination, in accordance with applicable University policies.

**VIII. Positions Identified as High-Risk/Sensitive:**

High-risk/sensitive positions as defined in *Va. Code Ann. § 2.2-1201.1* a) are responsible for the health, safety, and welfare of citizens or protection of critical infrastructures; b) have access to sensitive information such as federal tax information made available pursuant to an approved exchange agreement with the Internal Revenue Service or Social Security Administration; and c) include those positions that are otherwise required to be designated as sensitive by state or federal law. UVA Human Resources will collaborate with various University schools/departments/units to identify and track the positions that are categorized as high-risk/sensitive.

The University conducts pre-employment drug testing and a fingerprint-based background check for all candidates selected to fill high-risk/sensitive positions, including current employees who elect to transfer to a high-risk/sensitive position. Any position determined by the University to be high-risk/sensitive will be clearly identified as such in the job posting, which must also specify the requirement that selected candidates must submit to pre-employment drug testing and a fingerprint-based background check as a condition of employment.

Individuals selected or recommended to fill a high-risk/sensitive position may not begin work at the University pending the completion of pre-employment drug testing and a fingerprint-based background check.

Candidates denied employment for a high-risk/sensitive position will be disqualified from further consideration for future high-risk sensitive positions.

Personal will be respected to the extent practicable in the administration of drug testing. Drug testing results will be maintained in confidential medical information files revealed only to a) the tested candidate; b) personnel who have an institutional need to know; and c) other individuals or agencies as may be required by law. Employees, including personnel involved in conducting the drug testing, will be subject to discipline for unauthorized disclosure of personally identifiable information.

**IX. Contingent Hires:**

If the duration of a particular background check for a new employee is expected to exceed six weeks and the position has not been identified high-risk/sensitive, the vice president or dean, in consultation with the appropriate executive vice president, may allow the candidate to begin work after the criminal background, sexual offender registry, and professional license verification components of the background check process, along with any other screenings required by law (see [Section VII. Other Screenings and Disclosures Required by Law](#)) have been completed and evaluated in accordance with the terms of this

policy. International background checks will be initiated, where applicable, but, when such checks are expected to exceed six weeks and the position has not been identified as high-risk/sensitive, a contingent hire may be approved provided the previously specified components of the background check process in the United States have been completed and evaluated in accordance with the terms of this policy. In the event of a contingent hire, the conditional offer of employment must state that the final offer of employment is contingent upon the satisfactory outcome of the remainder of the background check process and reference this policy.

**X. Confidentiality of Employees' Disclosures:**

Records related to disclosures from current employees will be maintained confidentially by UVA Human Resources. Information will be shared with supervisors and other University officials only as appropriate, as determined by the CHRO or designee.

**XI. Ongoing Responsibility to Disclose Criminal Convictions:**

During the course of employment, any employee convicted for any crime (excluding moving traffic violations) has five calendar days to self-disclose the conviction via the University of Virginia Online Self Disclosure Form. Employees whose responsibilities include the use of University-owned vehicles (see policy [PRM-014: Use and Management of University-Owned Vehicles](#)) must also report any moving traffic violation within five calendar days of the citation.

Upon receiving notice of an employee's self-disclosed criminal conviction, UVA Human Resources may, if appropriate, refer the matter to the University's Threat Assessment Team and other pertinent University officials to determine the existence of actual or possible risks warranting further action. In addition, if UVA Human Resources determines that the self-disclosed criminal conviction constitutes a possible violation of University policy or could compromise the individual's ability to effectively perform their job, UVA Human Resources will contact the appropriate school/department/unit and, if appropriate, the employee's supervisor, to discuss the possibility of further action. The University may, given the nature of the conviction, place the employee on leave pending the outcome of its investigation. Depending on the facts and circumstances, and the employee's involvement in the events leading to the criminal conviction, criminal convictions disclosed to the employee's school/department/unit may result in disciplinary action, up to and including termination, in accordance with applicable University policies.

**XII. Responsibilities:**

*University Human Resources* is responsible for:

- Conducting background checks on all employees and others covered by this policy as part of the hiring/selection process.
- Conducting a background check on a current employee if, after consulting with the Office of University Counsel, there is a question whether a particular employee is compliant with this policy.
- Notifying a candidate/employee when a finding may adversely impact their eligibility to be engaged by the University in a specific position.
- Obtaining permission from the parent to initiate the background check of a minor.
- Notifying a selected candidate that they are governed by the ongoing responsibility to disclose criminal convictions.
- Notifying the designated hiring official that the required components of the background check process have been completed and properly validated for new employee hires, paid and unpaid faculty, visiting scholars, volunteers, scientists, and researchers.

- Maintaining the confidentiality of (1) background check results and (2) records related to disclosures from current employees.
- Collaborating with various University schools/departments/units to identify and track positions that are categorized as high-risk/sensitive.
- Notifying employees on an annual basis of their continuing responsibility to disclose criminal convictions.
- Referring, when appropriate, to the University's Threat Assessment Team and other pertinent University officials to determine the existence of actual or possible risks warranting further action upon receiving notice of an employee's self-reported criminal conviction.

***Vice presidents and deans*** are responsible for:

- Consulting with the appropriate executive vice president or designee following notification from the designated hiring official that the duration of a particular background check for a new employee is expected to exceed six weeks and the position has not been identified high-risk/sensitive, to allow the candidate to begin work after the criminal background, sexual offender registry, and professional license verification components of the background check process, along with any other screenings required by law have been completed and evaluated in accordance with the terms of this policy. (Note: UVA HR will notify the designated hiring official if the background check is expected to be delayed for up to six weeks, typically the case for international candidates.)

***Schools/departments/units*** are responsible for:

- Requesting a background check based on the specific role the individual may have.
- Not allowing new employee hires, paid and unpaid faculty, visiting scholars, volunteers, scientists, and researchers to begin work until being notified by University Human Resources that the required components of the background check process have been completed and properly validated.

***Employees and others covered by this policy*** are responsible for:

- Disclosing any criminal conviction (except moving traffic violations) within five calendar days of the occurrence.
- Reporting any moving traffic violation within five calendar days of the citation when responsibilities include the use of University-owned vehicles.

### **XIII. Compliance with Policy:**

Failure to comply with the requirements of this policy including but not limited to the employee's ongoing responsibility to disclose criminal convictions may result in disciplinary action up to and including termination in accordance with relevant University policies.

Questions about this policy should be directed to [UVA Human Resources](#).

### **Procedures**

[Pre-employment Background Check Process and Post-Employment Disclosure of Criminal Convictions](#), refer to the UVA Human Resources website.

[University of Virginia Online Self-Disclosure Form](#)

### **Related Information**

[HRM-050: Protection of Minors and Reporting Abuse](#)

[IRM-017: Records Management](#)

[PRM-014: Use and Management of University-Owned Vehicles](#)

[PROV-029: Faculty Appointment Types and Titles](#)  
[Notice of Non-Discrimination and Equal Opportunity](#)  
[Occupational Health Screening and Maintenance](#) (Health System Policy)  
[Virginia Department of Labor and Industry](#) (Youth Employment Law)  
[Virginia Child Labor Laws \(Va. Code Ann. § 40.1-100, et seq.\)](#)  
[Title 16 of the Virginia Administrative Code](#)

**Major Category** [Human Resource Management](#)

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**Category Cross Reference**

[Academic Administration](#)

**Supercedes Policy Text**

HRM-034, Faculty Background Checks.

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