

Cover Letter

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Reasonable Accommodation

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POLICY

Washington State University is committed to providing equal opportunity in its services, programs, and employment for individuals with disabilities. The University complies with federal and state laws (e.g., [RCW 49.60](#)) and regulations (e.g., [WAC 357-26](#)) regarding reasonable accommodation for persons with disabilities. This policy sets forth guidelines for meeting reasonable accommodation requirements of state and federal laws. See [below](#). The reasonable accommodation process is subject to flexibility within governing law.

Purpose

The University's reasonable accommodation process is designed to:

- Assist individuals with disabilities (impairments) with applying for employment,
- Ensure equal access to employment, and
- Help individuals remain in their jobs or appointments, with or without accommodations.

Applicability

This policy is applicable to all employees, appointees, candidates, and applicants for employment with Washington State University. It provides reasonable accommodations to persons with disabilities in accordance with [RCW 49.60.040](#) and other applicable state and federal laws. See also "Definitions" [below](#). Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment procedures with the University, including but not limited to application, recruitment, selection/hiring, promotion, testing, medical examinations, layoff/recall, assignments, termination, evaluation, compensation, disciplinary processes, leave, training, employee benefits including insurance, and employer-supported activities.

Reasonable Accommodation

Reasonable accommodation means modification or adjustment to a job, work environment, policy, practice, or procedure that enables an individual with a disability to enjoy equal employment opportunity and that does not impose an undue hardship on the employer. In accordance with [WAC 357-26-015](#), reasonable accommodation may include, but is not limited to:

- Accommodation in application procedures, testing, and interview processes; or
- Modifications or adjustments to a job, work method, or work environment that make it possible for a qualified person with a disability to:

Perform the functions of the position, or Enjoy the benefits and privileges of employment equal to employees without disabilities.

Contact Staff

Trained HRS staff have the authority necessary to initiate the University's reasonable accommodation process.

ACCOMMODATION PROCESS Notification

The University must provide each employee who requests reasonable accommodation with access to the University's reasonable accommodation procedure in a format that is accessible to that employee in accordance with [WAC 357-26-020](#). The University must include notification of the right to make a reasonable accommodation request and information on how to initiate such a request with all recruitment efforts. A person in the employee's supervisory hierarchy should refer the employee to Human Resource Services (HRS) to discuss the availability of reasonable accommodation under the following circumstances:

- When he or she becomes aware of the employee's impairment(s), and
- If it reasonably appears that the impairment may have a substantially limiting affect on the employee's ability to perform his or her job or enjoy access to equal benefits, privileges, or terms and conditions of employment.

HRS recommends that the supervisor also notify HRS of the referral. The referral recommendations above are not meant to impair an employee's rights to seek reasonable accommodation on his or her own, nor to alter protections set forth in this policy and under law.

Requesting Accommodation Employee Responsibilities

Unless the employer has received notice of the impairment, it is the employee's responsibility to inform the supervisor or HRS that he or she needs a reasonable accommodation in order to perform her or his job functions or to receive equal benefits, privileges, or terms and conditions of employment. The employee is responsible for providing current information concerning her or his medical condition, skills, abilities, training, and experience to HRS as part of the reasonable accommodation request.

Department Responsibilities

The supervisor should inquire whether the employee perceives a need for reasonable accommodation when:

- The employer has received notice of the impairment, and
- The impairment is reasonably believed to interfere with job functions or access to equal benefits, privileges, or terms and conditions of employment currently or in the future.

Since impairments may change over time, a single inquiry does not relieve the employer or the employee from the potential for ongoing discussion or engagement in an interactive process. NOTE: The supervisor must be careful to avoid an improper inquiry about the employee's possible impairment and to protect the employee's right to privacy. See [60.08](#) regarding applicants. **The supervisor should contact HRS for assistance with this process.** Supervisors are not to request medical documentation regarding the impairment or discuss the specifics of the medical diagnosis with the employee. HRS is responsible for maintaining medical documentation needed in the reasonable accommodation process.

Qualifying for Reasonable Accommodation in Employment

For the purposes of qualifying for reasonable accommodation in employment, the employee and the employer must participate in an interactive process.

- The employee and her or his health care provider must provide documentation to HRS indicating that a disability or medical impairment is known or shown to exist in fact; **and**
- The impairment must have a substantially limiting effect upon the individual's:

Ability to perform his or her job, Ability to be considered for a job, or
Access to equal benefits, privileges, or terms and conditions of
employment; **and**

- The existence of the impairment and the medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would

aggravate the impairment to the extent that it would create a substantially limiting effect. (All medical documentation is to be provided to HRS. See [below](#).)

NOTE: A limitation is not substantial if it has only a trivial effect. ([RCW 49.60.040\(25\)\(d\)\(e\)](#))

The obligation to provide a reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise any time that a person's disability/impairment or job changes. Behavior related to a disability must be examined in the context of possible eligibility for reasonable accommodation before an employee may be subject to discipline or other adverse employment action as a result.

Timely Response

Timely response to a reasonable accommodation request is essential in providing equal opportunity. Failure of a department to provide reasonable accommodation in a timely manner is justification for an applicant for a position to be granted an extension of application or other applicable deadlines to be considered for the applicant/employee.

Documentation *Request Form*

To make a written reasonable accommodation request, the employee or applicant completes and submits an Accommodation Request for Disability or Serious Medical Condition form to HRS. Obtain copies of the form by completing and/or printing the blank master on [60.21.18](#). NOTE: Completion of a request form may not always be necessary. However, completion is recommended to assist HRS and the department with maintaining an accurate record of the request and action taken. If the employee fails to complete an Accommodation Request for Disability or Serious Medical Condition form, HRS may request the employee to do so. An employee who makes a verbal request may be asked to complete written documents. HRS provides assistance with completing the written documents if reasonable accommodation for such completion is required.

Medical Documentation

HRS may request that the employee provide written documentation from a licensed health care provider (HCP), including a statement of the employee's functional limitations or substantially limiting effects. This documentation may also include the HCP's recommendations about potential alterations or adjustments to the job functions. Use the following forms, as needed, to request and obtain written documentation from a health care provider:

- Medical Release Statement for Reasonable Accommodation Requests on [60.21.19](#), and
- Health Care Provider Statement for Reasonable Accommodation Requests on [60.21.20-24](#)

. The health care provider statement includes a work assessment section.

Refusal by the employee to provide adequate medical documentation may result in denial of reasonable accommodation or separation from employment.

Review of Request HRS Review/Consultation

Upon receiving the reasonable accommodation request, HRS reviews the current position description, the position's functions, and qualifications. HRS contacts the department and employee once the completed request is received. HRS may request additional information. The employee may also schedule an appointment with HRS on his or her own initiative.

With Employee

Human Resource Services consults with the individual to:

- Discuss his or her specific sensory, mental, and/or physical abilities and limitations in relation to the job functions;
- Identify the disability-related barriers to job performance and current or potential substantially limiting effects;
- Assess how reasonable accommodation may overcome these barriers; and
- Discuss the employee's preferences with regard to reasonable accommodation.

With Department

The department, in consultation with HRS, may consider a reasonable accommodation for job functions or elimination or adjustment of certain functions. See [below](#) regarding determination of functions.

Verification

The University through HRS may request that an applicant or employee provide verification from a health care professional (HCP) when he or she requests an accommodation and:

- The disability is not readily apparent or understandable without HCP input;
- The disability has not been previously documented;
- The reasonableness of the request is not evident; and/or
- Medical documentation is required to establish a substantially limiting effect or a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

HCP Opinion

The University through HRS may request the health care professional's opinion as to whether or not:

- The employee or applicant has sensory, mental, and/or physical impairment as claimed;
- The impairment has the effect of necessitating reasonable accommodation in that it has a substantially limiting effect on the individual's:

Ability to perform his or her job, Ability to apply or to be considered for a job, or Access to equal benefits, privileges, or terms and conditions of employment;

- The employee or applicant is able to perform the functions of the job with or without reasonable accommodation;
- A reasonable likelihood exists that engaging in job functions without a reasonable accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect; and/or
- The requested accommodation is appropriate to the disability.

Second Opinion

The University may obtain a second opinion from a health care professional chosen and paid for by the employing department. Such inquiries are limited to:

- Verification of the employee's claims;
- Comments on the appropriateness of the requested accommodation; and/or
- Suggestions of possible effective alternative accommodations.

Medical Examination and/or Certification

The University may require a medical examination and/or health care professional's certificate where a question arises concerning the fitness of a current employee to perform the duties of his or her position. The employing department pays the cost of the medical examination and/or certificate.

Determining Reasonable Accommodation

HRS consults with the supervisor, the employee, and if applicable, a vocational professional if the disability:

- Precludes the employee from performing job functions,
- Substantially limits the individual's ability to perform his or her job, or
- Is reasonably likely to substantially limit the individual's ability to perform his or her job without reasonable accommodation.

The consulting group undertakes the following actions, as appropriate:

- Evaluation of the employee's functional abilities and limitations;
- Analysis of the job requirements;
- Exploration of reasonable accommodation options available to enable the employee to perform the job's functions, including but not limited to:

Making existing facilities used by employees readily accessible to be used by the employee with an impairment or impairments; Restructuring the job in a manner consistent with reasonable accommodation; Granting a leave of absence in a manner consistent with law; Modifying work schedules in a manner consistent with law; Acquiring or modifying equipment or devices, in accordance with law; Providing qualified readers and interpreters; Reviewing current vacancies within the department; and/or Providing the opportunity for reassignment to an active vacant position.

- Determination of the most effective reasonable accommodations;

- Evaluation concerning whether or not the employee can perform the job in a manner safe to others and the employee.

For any questions concerning the nature of the limitation or a reasonable accommodation being considered, the employee and/or the supervisor should consult with HRS. HRS may also consult with other knowledgeable sources. All parties are obligated to engage in the reasonable accommodation process in such instances.

HRS and Department Evaluation

HRS and the department evaluate the suggested accommodation(s) by assessing:

- The effectiveness of the proposed accommodation in enabling the employee to perform the job functions;
- The operational needs of the department; and
- The cost of the proposed accommodation.

Considerations

HRS and the department consider the following factors, as appropriate:

- The number of persons employed in the department.
- The number, type, and locations of the units within the department.
- The type of operation, including:

The composition, structure, and functions of the department's workforce, The department's geographic separateness, and The administrative or fiscal relationship of the department to the campus;

- Impact of the proposed accommodation on:

The operation of the department, The ability of other employees to perform their duties, The department's ability to conduct business.

- The nature and cost of the proposed accommodation.
- The overall financial resources of the University with respect to the number of employees and the number, type, and location of University facilities;
- The effect on expenses and resources or other impact of the proposed accommodation on business operations.

Undue Hardship Limitation

The University must provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless doing so imposes an undue hardship. However, before concluding that a particular accommodation would impose an undue hardship, the University must consider whether or not there are alternative reasonable accommodations that would not impose such a hardship. NOTE: Determinations of "undue hardship" may be made only by the appropriate dean or vice president after consultation with HRS. Such determinations must be documented in writing with the appropriate signatures. See also [below](#).

Accommodation Options

The supervisor and HRS review any selected reasonable accommodation options with the employee, as necessary. Dialogue concerning reasonable accommodation may be ongoing and may involve members of the employee and supervisor's supervisory hierarchy, as well as other relevant University officials.

Accommodation to Position

If two or more effective accommodations exist, and after considering the preference of the individual with a disability, the University may select the reasonable accommodations to be provided.

Placement in Alternate Position

The University attempts to place an employee with a documented disability in an equivalent or lower status vacant position for which the employee qualifies if:

- The employee is no longer able to perform the functions of his or her position with or without reasonable accommodation;
- Medical documentation establishes a reasonable likelihood that engaging in job functions without a reasonable accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect and no reasonable accommodation for the position exists; and/or
- Accommodation in the present position would cause an undue hardship (see [below](#)).

Generally, placement under this policy is without competition. However, an employee covered by this policy may compete with other similarly-situated candidates for the same nonpromotional position. The employee must meet the minimum qualifications and specific position requirements for any vacant position offered as a reasonable accommodation. The employee must meet those position requirements with or without a reasonable accommodation. Under this policy, the University is **not** required to:

- Create a position,
- Displace another employee,
- Offer a promotion, or
- Move an employee into a position for which the employee is not qualified.

Refusal by the employee to cooperate with the placement efforts or to provide adequate medical documentation may result in separation or the employee not receiving reasonable accommodation.

Individual Options

If the cost of a reasonable accommodation imposes an undue hardship and there are no other financial resources available, the University gives the individual with a disability the option of providing the accommodation, or paying that portion of the cost which constitutes an undue hardship. Individuals should consult with HRS in those situations where the employee or his or her supervisor seeks an adjustment.

No Accommodation Selected *By Department*

The department should discuss with HRS any suggested accommodations that appear to be unacceptable. This determination includes an evaluation of undue hardship. See [below](#). A reasonable accommodation identified or adopted by the parties as acceptable may not be rejected or ceased by a department as an undue hardship without involving HRS. The department should consult with HRS prior to ceasing any previously approved or pursued reasonable accommodation, including those cases where the potential action appears to be consensual between the employee and supervisor.

Written Justification

The University provides written justification, signed by the appropriate dean or vice president, to the individual for any decision not to provide a reasonable accommodation because of undue hardship.

By Employee

A qualified individual with a disability has the right to refuse a reasonable accommodation. (See [below](#) for the definition of a qualified individual with a disability.) However, if the individual refuses the reasonable accommodation and is unable to perform the job functions without the accommodation, he or she is not then considered to be a qualified individual with a disability. In this case, the employee may be separated from employment.

Disability Separation

A disability separation is an action taken to separate an employee from service when the employer determines that the employee is unable to perform the essential functions of his or her position or class with or without reasonable accommodation due to mental, sensory, or physical incapacity. Disability separation is not a disciplinary action. ([WAC 357-46-160](#)) If no applicable position is available (through an alternative vacant position), and after the employee has exhausted his or her family medical leave entitlement, the employee may be separated from the University and accorded reemployment assistance for a period of two years. See [60.56](#) and [60.57](#) regarding family medical leave.

Requested by Employer

The University notifies the employee in writing that WSU may initiate a disability separation if:

- WSU is not able to provide reasonable accommodation to the employee in his or her current position, **or**
- Placement of the employee in an alternative vacant position is not possible, **or**
- The University receives medical documentation indicating that the employee is unable to work in any capacity, **or**

- The attempted reasonable accommodation was unsuccessful in enabling the employee to perform her or his job duties.

Requested by Employee

An employee who is unable to perform his or her job due to mental, sensory, or physical incapacity may choose not to pursue reasonable accommodation and may request to be separated from employment by notifying his or her employer. ([WAC 357-26-025](#)) In this case, WSU is not required to consider a reasonable accommodation and may initiate a disability separation in accordance with [WAC 357-46-160](#), the [Administrative Professional Handbook](#), and the [Faculty Manual](#).

Reemployment Assistance

Employees who are separated due to disability from WSU employment are eligible for reemployment assistance for up to two years following separation. See [WAC 357-19-470](#) for information regarding reemployment services. Former employees who are able to work at least 50 percent FTE (full-time equivalent) and are interested in seeking reemployment assistance contact Human Resource Services; telephone 509-335-4521; Text/TTY 509-335-0155; or e-mail to:

hrs@wsu.edu

Reemployment rights of an appointee depend on the terms of her or his appointment.

CONFIDENTIALITY

By law, medical information received by the University is confidential (subject to certain limited exceptions). Such information is maintained separate from the personnel records. Reasonable accommodation medical records for all University employees and affected others (e.g., applicants seeking reasonable accommodation) are retained in HRS, in files separate from personnel or benefits records which are unrelated to reasonable accommodation. Each department, including HRS, must treat all information regarding the presence or nature of an employee's or applicant's disability as confidential medical records. The department must forward such records to HRS. See also [90.01](#), [90.05](#), and [90.07](#) regarding confidential records.

Employee Disclosure

Individuals are not required to reveal diagnoses or the details of medical treatments to immediate supervisors or to coworkers. However, some persons voluntarily choose to share this information with others. While someone may voluntarily choose to share some information about his/her condition, supervisors must understand that:

- The information should still be considered confidential; and
- A person who has shared some information at a particular time may later decide that she or he no longer wishes to discuss the condition or treatment. Such a decision must be respected.

Employees may be expected to provide medical information to HRS or other University representatives who have responsibility for assisting with the reasonable accommodation process.

Health Care Provider Information

If an employee gives to his or her supervisor written information or requests from his or her health care provider, the supervisor is to immediately forward the documents(s) to HRS.

DISPUTES AND CONCERNS

The University has developed a review procedure for addressing disputes related to requests for reasonable accommodations and other concerns. Advisory guidelines regarding workplace concern resolution are available from the Human Resource Services (HRS) website, at:

<http://www.hrs.wsu.edu>

Collective Bargaining Unit Employees

Employees covered by collective bargaining unit agreements follow the procedures outlined in the applicable agreements regarding disputes. Bargaining unit agreements may be viewed from the HRS website at:

<http://www.hrs.wsu.edu>

TRAINING

Information concerning reasonable accommodation, the University's policy and procedures, and applicable forms are available through various training sessions, as well as in this section (60.21). See [60.71](#) regarding training.

DEFINITIONS Appointees

Appointees are fellows, residents, and graduate student assistants.

Employees

University employees are faculty, administrative professional personnel, civil service and

collective bargaining unit staff, temporary employees, and hourly student employees.

Job Functions

Job functions are the fundamental job duties of the position that the individual with the disability holds or has applied for. The term does not include the marginal functions of the position.

Determining Job Functions of a Position

The department is obligated to examine each position to determine the position's purpose and central functions. Appropriate times to examine a position include when:

- Position is established,
- Position becomes vacant,
- Duties are changed,
- Request for a reasonable accommodation is made, or<
- Annual review is conducted.

Criteria

The department considers all of the following criteria in identifying the functions of a job:

- Is an employee in the position actually required to perform the function?
- Would removing that function fundamentally change the job?
- Was the position established to perform the function?
- Are there a limited number of other employees available to perform the function, or among whom the function can be distributed?
- Is the function highly specialized and is the person in the position hired for special expertise or ability to perform the function?

Equal Employment Opportunity

Equal employment opportunity means an opportunity for a qualified individual with a disability to perform the job functions or enjoy the same benefits and privileges of employment available to a similarly-qualified applicant or employee without a disability.

Health Care Professional or Health Care Provider

Health care professional means a person who has completed a course of study and is licensed to practice in a field of health care which includes the diagnoses and assessment of the particular disability or disabilities in question.

Disability

According to [RCW 49.60.040\(25\)](#), the term "disability" means the presence of a sensory, mental, or physical impairment that:

- Is medically cognizable or diagnosable; or
- Exists as a record or history; or
- Is perceived to exist whether or not it exists in fact.

A disability exists whether or not it:

- Is temporary or permanent;
- Is common or uncommon;
- Is mitigated or unmitigated;
- Limits the ability to work generally or work at a particular job; or
- Limits any other activity within the scope of [RCW 49.60](#).

Impairment

According to [RCW 49.60.040\(25\)](#), impairment includes, but is not limited to:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine; **or**
- Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Impairment for Purposes of Reasonable Accommodation for Employment

For the purposes of qualifying for reasonable accommodation in employment according to [RCW 49.60.040\(25\)](#), an impairment must be known or shown through an interactive process to exist in fact and:

- The impairment must have a substantially limiting effect upon the individual's:

Ability to perform her or his job, Ability to apply or be considered for a job, or Access to equal benefits, privileges, or terms and conditions of employment; **or**

- The employee must give the employer notice of the existence of an impairment and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

NOTE: A limitation is not substantial if it has only a trivial effect. ([RCW 49.60.040\(25\)\(d\)\(e\)](#))

Qualified Individual With a Disability

Qualified individual with a disability means an individual with a disability who meets the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, is able to perform the functions of the job.

Undue Hardship

Undue hardship means an excessively costly, extensive, substantial, or disruptive modification, or one that would fundamentally alter the nature or operation of the institution or program.

ADDITIONAL INFORMATION Selection Criteria

University departments are obligated to ensure that qualification standards, employment tests, or other selection criteria do not screen out or tend to screen out individuals with disabilities unless such criteria are job-related and consistent with business necessity. University departments are obligated to use employment tests in the most effective manner to measure actual abilities. Tests used must accurately reflect the skills, aptitude, or other factors being measured. Tests used are not to reflect the impaired sensory, manual, or speaking skills of an employee or applicant with a disability (unless those are the skills the test is designed to measure and such skills are consistent with business necessity).

Equal Terms, Benefits, Privileges, and Conditions of Employment

The University provides reasonable accommodations to enable an employee with a disability to enjoy terms, benefits, privileges, and conditions of employment equal to those enjoyed by a similarly-situated employee without impairment(s) or disability(ies). The need for a reasonable accommodation is **not** to be a factor in the selection of an employee for

promotion, training, travel, participation in projects, committees, or any opportunity which may have an impact on the employee's career development. The University provides reasonable accommodations to enable an employee with a disability to have the opportunity to enjoy all employer-supported social or recreational activities. Timelines for all activities and opportunities covered under this section must allow adequate opportunity for arranging reasonable accommodations.

Complaints

If an individual believes that she or he has been discriminated against on the basis of a disability and/or denied a reasonable accommodation on the basis of a disability, the individual may contact the Office for Equal Opportunity; telephone 509-335-8288. An individual may also file a discrimination complaint with the following offices:

- U.S. Equal Employment Opportunity Commission; telephone 206-220-6883; Text/TTY 206-220-6882.
- U.S. Department of Labor, Office of Federal Contract Compliance Programs; telephone 206-553-7182; Text/TTY 206-553-7745.
- U.S. Department of Education, Office for Civil Rights; telephone 206-220-7900; Text/TTY 206-220-7907.
- U.S. Department of Health and Human Services, Office for Civil Rights; telephone 206-615-2290; Text/TTY 206-615-2296.
- Washington State Human Rights Commission; telephone 800-233-3247; Text/TTY 800-300-7525.

Retaliation

It is against Washington State University policy and state and federal laws to retaliate against an individual who files a complaint of discrimination, participates in an investigation, or opposes illegal discrimination.

APPLICABLE STATUTES, REGULATIONS, AND ORDERS

This policy and procedures are in accordance with the Washington Law Against Discrimination, [RCW 49.60](#), and its definitional and reasonable accommodation provisions. It is in accordance with [Washington Administrative Code 357-26](#). This policy and procedures complement relevant personnel policies and collective bargaining agreements and should be read in conjunction with those provisions. The policy is based on the "State Policy Guidelines on Reasonable Accommodation of Persons with Disabilities Related to State Employment" issued November 1, 1994 by the Washington State Office of Financial Management, which exists under the authority of [Executive Order 96-04](#) and with reference to the following

provisions, as amended subsequent to the issuance of the guidelines:

- Americans With Disabilities Act, Title I of 1990 (P.L. 101-336)
- 29 CFR Part 1630
- 28 CFR Part 35
- Rehabilitation Act of 1973 (P.L. 93-11)
- 45 CFR 84
- [RCW 49.60](#)
- [WAC 162-22](#)
- [WAC 357-26](#)

ASSISTANCE

Questions regarding the application of these procedures may be directed to Human Resource Services; telephone 509-335-4521; Text TTY 509-335-0155: or email to:

hrs@wsu.edu

For further information and resources regarding University accessibility for individuals with disabilities, go to the University's Accessibility website at:

<http://access.wsu.edu/>

To request this information in an alternate format, contact the Access Center; telephone 509-335-1566.

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