



formerly known as Tasmanian Gay and Lesbian Rights Group

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Fiona Murphy  
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Government Administration Committee A  
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Dear Secretary,

Please find below a supplementary submission from Equality Tasmania to the Inquiry into Discrimination and Bullying in Tasmanian Schools. We have included two attachments.

Best wishes,  
Rodney Croome  
Thursday April 17<sup>th</sup> 2025

## **Introduction**

A number of matters have been raised by faith-based schools, school authorities and religious lobby groups since Equality Tasmania lodged its primary submission to this inquiry.

Equality Tasmania asks for the opportunity to respond to these matters through the following supplementary submission.

This submission focusses on myths, misinformation and concerns about

- the extent and nature of discrimination in faith-based schools
- parental attitudes to this discrimination
- freedom of speech, assembly and freedom
- the dissemination of doctrine through schools
- the “wokeness” of attempts to challenge discrimination and bullying
- the relationship between state and federal anti-discrimination law
- the invidious position school counsellors are placed in

The submission also draws the committee’s attention to new research that sheds light on anti-LGBTIQA+ discrimination in faith-based schools , parental attitudes to such discrimination and the value of supportive school environments in Tasmania.

## **Debunking the myth that faith-based schools don’t discriminate**

### Do faith-based schools have low-levels of bullying?

Catholic Education Tasmania, Christian Schools Australia, the Australian Christian Lobby and other groups have argued that Australian faith-based schools have lower levels of bullying and discrimination than other Australian schools. This is based chiefly on a 2022 Australian Council for Educational Research report examining the Australian results of the Programme for International Student Assessment.

We believe these results are irrelevant to the current inquiry for a number of reasons.

The results for Tasmanian faith-based schools are not provided in the report. The results for faith-based schools are national results only. Given overall Tasmanian results for bullying and other measures of student wellbeing are significantly lower in Tasmania than the other states, we should expect the results for students in Tasmanian faith-based schools to also be lower than the national average.

There are no results for bullying and other measures of student wellbeing in relation to sexual orientation or gender identity. Given the poorer results for other minority students, including First Nations students and students from lower socio-economic backgrounds, and given that Australian research shows LGBTIQA+ students consistently experience higher levels of school bullying than other minority students, we can expect that the results for LGBTIQA+ students in faith-based schools would be much, much lower than the religious school average.

For these reasons we urge the Committee to disregard the evidence from the ACER study of PISA results.

Lobby groups for faith-based schools also cite surveys conducted by faith-based schools themselves, or by faith-based school associations. These surveys have returned very low levels of discrimination and bullying against LGBTIQ+ teachers. We have a number of concerns about these studies.

Some are self-selecting, i.e. only students and teachers who wish to fill them in do so. They therefore do not give an accurate or representative snapshot of conditions in the classroom.

Added to this concern is one about safety. LGBTIQ+ students and teachers in faith-based schools may not feel safe responding to surveys that could identify them, particularly in smaller school communities.

Finally, there is the credibility test. It is simply not credible that barely any LGBTIQ+ students or teachers have experienced discrimination or bullying during their time at any school, religious or non-religious. This is because surveys of LGBTIQ+ young people and teachers find many experience some form of discrimination or bullying at school and that this is higher in faith-based schools. It is our view that self-conducted surveys in state schools show higher levels of discrimination and bullying against LGBTIQ+ students and staff than in faith-based schools, not because there is a higher level of such behaviour, but because it can be more safely reported. This analysis is given greater credibility by the fact that in state schools there tend to be greater levels of awareness, more support networks and better policies.

Our view that the self-conducted surveys from faith-based schools are unreliable is reinforced by some of the views on LGBTIQ+ issues reported, and not-reported, in those surveys. Here are three Tasmanian examples from the Christian Schools Australia submission. Keep in mind they are cited as examples of low levels of discrimination and bullying:

*"Our school have welcomed and supported non-Christian students who have struggled with their gender identity, allowing them freedom to try out different identities. I am aware of several students that I teach who are having similar struggles. The school gives them space and love. The students feel happy, supported, and known as they wrestle with their sexual and gender identity questions."*

*"In an age where so many children and young people feel hopeless, we want to offer them a sense of hope - that nothing can separate them from the love of God."*

*"I have been a teacher, team leader, AP and Principal at our school since 1994. We have never discriminated against a student due to their faith,*

*church attendance or lack of faith and as an open enrolment school we see our role to look after and care for ALL children who attend."*

Phrases such as "wrestle with their sexual and gender identity", "gives them space and love" and "separate them from the love of God" do not indicate a learning environment that affirms LGBTIQ+ people. This language is adjacent to conversion ideology and could indicate the existence of conversion practices in these schools.

Phrases such as "we have never discriminated...and care for ALL children" indicate a failure to take into account the particular needs or aspirations of LGBTIQ+ young people.

Most telling is that not a single LGBTIQ+ student is quoted from the schools' own surveys. Clearly, the surveys are not capturing the experience of LGBTIQ+ students or staff and should not be considered credible or useful evidence by the Committee.

#### Do faith-based schools have strong anti-bullying policies?

Another argument made by faith-based schools and their advocates is that they have anti-bullying policies.

In their submissions they often cite these policies and how they seek to reduce bullying on the grounds of aboriginality, disability, socio-economic disadvantage, cultural and linguistic diversity, and religious affiliation or lack of affiliation.

But not a single submission cites a policy dealing with discrimination and bullying on the basis of sexual orientation or gender identity.

This is consistent with the finding of Equality Australia in its report, "Dismissed, Denied, Demeaned: a national report on LGBTQ+ discrimination in faith-based schools and organisations", March 2024. The report found that:

*"9 in 10 of the Catholic educational authorities we reviewed...publish so little information about their position on LGBTQ+ inclusion that prospective parents, students or employees are not able to know...whether they will be welcome or included as LGBTQ+ people. That's also the case for 1 in 3 independent schools."*<sup>1</sup>

Faith-based schools that cite all the disadvantaged students and staff they seek to protect from discrimination and bullying, but are silent about

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<sup>1</sup> <https://equalityaustralia.org.au/resources/denied-denied-and-demeaned-a-national-report-on-lgbtq-discrimination-in-faith-based-schools-and-organisations/>

LGBTIQA+ people, make a case that is the opposite of the one they think they are making.

Their case is that they do not care about discrimination and bullying against LGBTIQA+ students and staff, or at least they do not care nearly as much as they do about other groups that face mistreatment.

#### Are faith-based schools subject to fewer discrimination cases?

In its submission, Catholic Education Tasmania says it has been a respondent in only two cases of discrimination in the last four years.

Equality Tasmania has provided assistance to more than complainants in that time so we contest CET's figure. Perhaps CET is referring to complaints that went beyond conciliation.

Regardless, the more important point is that most parents, teachers and students who contact Equality Tasmania for support do not wish to make complaints under the Tasmanian Anti-Discrimination Act.

This can be for a number of reasons including:

- Fear of retribution from teachers, students, principals, Catholic Education Tasmania and/or the Church. This is often based on prior experience of LGBTIQA+ people and their allies being silenced or censored in the school itself. It is also based on seeing how church members have attacked and demonised those who make complaints against its discriminatory conduct in the past, for example, Martine Delaney.
- Fear of a successful complaint being appealed to a cost jurisdiction including the Supreme Court or the High Court. This is based on Church assertions that state discrimination laws are inconsistent with federal legislation and that they wish to see the former struck down.
- Lack of the kind of professional legal support that is available to faith-based schools. In Tasmania there are no community-based LGBTIQA+ community legal services. Meanwhile, professional lawyers have all-too-little experience with discrimination law. Equality Tasmania and our legal contacts attempt to provide as much support as possible. But all legal support is provided on a voluntary basis.
- Successful relocation to a new school and a desire to put discrimination and bullying behind them.

- The absence of visible local discrimination victims who can model successful discrimination complaints.

Given the barriers to making complaints, it is a surprise to us that any complaints have been made at all.

### Do faith-based schools want to end discrimination or allow it?

So far we have looked at protestations from faith-based schools and school authorities that they do not discriminate. As we have seen this is not credible.

The final point to make here is that many of the religious school authorities and religious lobbies that made submissions seek exemptions from Tasmania's Anti-Discrimination Act that would allow them to legally discriminate.

Sometimes this is couched in terms of religious freedom guaranteed in the International Covenant on Civil and Political Rights or the Tasmanian Constitution Act (more on this below).

But regardless of its rationale, it contradicts the case that faith-based schools don't discriminate.

Why would schools want the right to discriminate if they have no desire or intention to discriminate?

What purpose would the right to discriminate serve if schools are so determined to protect "ALL" students and staff from discrimination?

In our view, the answer to this seeming paradox is simple; too many faith-based schools and school authorities know they discriminate against LGBTIQ+ students and staff, and they want the right to do that without legal challenge, recourse or remedy from those they would discriminate against.

## **Debunking other arguments made by faith-based schools and school authorities**

### Do parents choose faith-based schools because of their values?

Many of the faith-based schools, school authorities and religious lobby groups that made submission to this inquiry argued that parents expect faith-based schools to maintain a set of ethical and religious standards. The implication in each case was that these standards include allowing discrimination against LGBTIQ+ students and staff.

But the evidence gives a very different picture. In 2024 researchers at Curtin University conducted a study titled,

*"What do Australians really think about religious school LGBT discrimination? Attitudes amongst the public, teachers, students, parents and school sectors"*

The study found the following,

*"The contention that most or all parents at Australian religious schools seek to discriminate against LGBT people is found to be robustly false. A social license for such discrimination does not exist. Most religious and religious-school parents clearly support LGBT inclusivity. While a very small cohort of parents undoubtedly choose a religious school for the purpose of LGBT discrimination, most parents choose religious schools for other reasons such as perceived school facility quality, teaching quality, and attention to discipline."*

We have included the study as attachment one.

The conclusion that parents of students in faith-based schools oppose discrimination on the grounds of sexual orientation and gender identity should not come as a surprise.

Whatever their varied reasons for choosing faith-based schools, almost all parents want their child to be safe and accepted and their child's teachers to be selected on the basis of competence, not sexual orientation or gender identity.

In particular, they want their child's school to be free of discrimination and bullying.

The Tasmanian experience corroborates this. Across the whole 27 years that Tasmania has had legal protections against LGBTIQ+ discrimination in faith-based schools, we are not aware of a single complaint from a parent, not one.

Do Tasmania's protections against LGBTIQ+ discrimination in faith-based schools violate freedom of speech, assembly and religion

In our primary submission, Equality Tasmania made case that all rights guaranteed by international law are caveated so their exercise does not cause or allow harm, including discrimination. The right to religious freedom is not an exception. It is not an absolute right and cannot be exercised to the detriment of others.

A further point to make about freedom of speech, assembly and religion is that too many of the faith-based schools, school authorities and church leaders who claim these rights for themselves routinely deny them to others.

For example, in the case studies we included in our primary submission re cited cases of students being denied the right to form pride groups by their faith-based school, the right to speak in support of LGBTIQ+ equality and inclusion in class or at school assemblies, or even the right to include references to LGBTIQ+ human rights in their course work.

It seems hypocritical for school authorities that routinely deny freedom of speech and assembly to students to demand the law allows them an unfettered enjoyment of freedoms. They may pose as the victims of freedom denied. But in fact they abuse the language of human freedom to dominate others and to steal freedom from those who are much less powerful.

#### Do religious and school authorities have the right to disseminate their doctrine in school communities?

As we noted in our primary submission, the Archbishop of Hobart has issued two booklets that put forward negative views about LGBTIQ+ people (for example that same-sex relationships “mess with kids”) and which were distributed by Catholic Education Tasmania through the Catholic school system. The Archbishop has voiced similar views at school assemblies.

The Archbishop has also endorsed the extremely prejudiced views of other clerics. For example, in 2016 Rabbi Shimon Cowen published a book that compared homosexuality to incest and bestiality, blamed gay men for AIDS and accused lesbians of high levels of family violence. According to the Australian newspaper on August 23<sup>rd</sup> of that year, Archbishop Porteous wrote on the website of the Archdiocese of Hobart that the book was a “balanced, fair and courageous study of the nature of homosexuality”.<sup>2</sup>

The Archbishop has defended his public statements and the dissemination of these statements through school communities by declaring them to be Catholic doctrine.

One problem is that it is not clear all his statements are doctrine. Where in Catholic doctrine is a link made between same-sex relationships and messing with young people?

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<sup>2</sup> <https://www.theaustralian.com.au/nation/politics/rabbi-cowen-compares-homosexuality-to-incest-bestiality/news-story/d058bfa2bb8b1689004fbcd57a2f8f32>



The bigger problem is that he only expresses doctrine that demeans and denigrates LGBTIQ+ people.

In the last few years Pope Francis has

- Approved blessings for same-sex couples
- Supported the decriminalisation of homosexuality
- Supported civil unions for same-sex couples
- Endorsed gay men training as priests
- Called for trans and gender diverse people to be included in Catholic communities
- Heard the personal testimonies of transgender and intersex Catholics
- Urged Catholic parents never to reject their gay or trans children

Not once, in any of their many public statements about LGBTIQ+ people, including those distributed through schools, have Archbishop Porteous or Catholic Education Tasmania mentioned any of these positive and inclusive statements from the Vatican. They are clearly picking and choosing which Catholic views they agree with and which they don't.

The Archbishop and Catholic Education Tasmania have a right to express their views on LGBTIQ+ people in public. However, they also have a responsibility, when dealing with school communities, to represent Catholic doctrine honestly and in full. Otherwise, they are simply abusing their authority to disseminate their own prejudices and biases.

Is challenging discrimination and bullying against LGBTIQ+ people in faith-based school communities a woke, DEI, post-modern trojan horse?

Challenging discrimination and bullying against LGBTIQ+ people in faith-based schools, and encouraging safety and inclusion instead, has been labelled "woke", "DEI", "post-modern" and "a trojan horse" for Marxist and/or post-modern ideology.

None of this is true.

The labels "woke" and "DEI" (diversity, equity and inclusion) have the connotation of measures which positively discriminate in favour of minority groups that have traditionally faced systemic discrimination with the goal of rectifying the legacy of that past discrimination. This might take the form of quotas for black students at a traditionally-white school, or quotas of women teachers in a traditionally male-dominated school.

That is not what Equality Tasmania means when we use the term "discrimination" in the current context. We are chiefly talking about discrimination which disadvantages an individual because of an irrelevant

characteristic such as sexual orientation, gender identity or relationship status. Put another way, we are talking about discrimination that prevents people being treated according to their individual merits, as opposed to positive discrimination which sees individuals through a lens of historical injustices against entire groups. In the current context, examples of the discrimination we oppose would include a teacher not being promoted because they are gay even though they are otherwise qualified for the job, or a student not being included in school activities simply because they are transgender.

It is disingenuous for some school authorities and religious lobby groups to try and portray positive discrimination for an entire group as the goal of anti-discrimination law, Equality Tasmania and/or the movement to reduce levels of discrimination and bullying in faith-based schools. This is clearly not the case.

The other response to the aforementioned criticism is that there is nothing new about challenging anti-LGBTIQ+ discrimination and bullying in faith-based settings. For decades, Equality Tasmania has worked with faith-based groups to do just that.

For example, we have worked with the Scripture Union of Tasmania to train school chaplains to support young LGBTIQ+ people. We have been involved in LGBTIQ+ professional development for service providers at Anglicare Tasmania and Baptcare Tas/Vic. We have been invited to speak at Catholic, Anglican, Uniting and Calvinist schools in Tasmania. We worked together with the then Catholic Education Office to implement the LGBTIQ+ anti-discrimination program, Pride and Prejudice, in a number of Tasmanian Catholic schools.

Tasmania has a long history of faith-based schools and the LGBTIQ+ community working together to reduce levels of discrimination and bullying against LGBTIQ+ people in those schools.

It is actually the push-back against LGBTIQ+ school inclusion which is new, highly-ideological and dangerous.

Is it true that violations of the Tasmanian Anti-Discrimination Act are permitted by overriding federal discrimination law?

In her submission to the current inquiry the former Anti-Discrimination Commissioner, Sarah Bolt, made it very clear what discrimination is allowed under the Tasmanian Anti-Discrimination Act and what is not:

*'Discrimination on the ground of religious belief or affiliation, or religious activity, in relation to employment is only covered as it related to religious grounds, not any other attribute.'*

The exception found in the Act relating to religious belief, affiliation or activity (Part 5, Division 8) does not permit discrimination on the basis of any other attribute, including sexual orientation, gender identity, relationship status, marital status or lawful sexual activity.

When questioned by members of the current inquiry about their compliance with the Tasmanian Anti-Discrimination Act, the Catholic school representatives cited section 38 of the Commonwealth Sex Discrimination Act as a defence against complaints under the Tasmanian Act.

Archbishop Porteous said,

*'In federal law there is section 38 of the Sex Discrimination Act that recognises the right of religious organisations to make decisions with regard to staffing, so the current law allows us to do what we do. As I said what we lack in Australia at the moment is some recognition in law of the positive value that religion makes to society and so there should be some protection offered in law.'* (at 57:25)

Dr Gaskin said,

*'We're compliant with federal law and where there's a conflict between ... state law and federal law on a particular matter, federal law always abides, overrules the state law. We understand that to be the case.'* (at 58:27)

We firmly believe that federal discrimination law does not provide a defence for allegations of discrimination under the Tasmanian Anti-Discrimination Act. In our primary submission we provided several pieces of evidence showing why the exemptions on the Sex Discrimination Act do not provide exemptions or defences in state discrimination law. We now cite further evidence in support of our position:

First, we note the Anti-Discrimination Commission's response to Dr Gaskin's constitutional point in an ABC news article following the relevant February hearing:

*'Tasmania's Acting Anti-Discrimination Commissioner Pia Saterno said while Australia's constitution stated federal law prevailed over state law, Australian and Tasmanian anti-discrimination law were designed to co-exist. Ms Saterno (sic) noted the federal law stated it was not "intended to exclude or limit the operation of a state or territory".'*<sup>3</sup>

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<sup>3</sup> <https://www.abc.net.au/news/2025-02-16/catholic-education-accused-anti-discrimination-law-breaches/104940868>

Second, we note the following view on this issue from former Tasmanian Anti-Discrimination Commissioner, Robin Banks:

*"Each state and territory has developed discrimination laws to protect people within the jurisdiction from discrimination. Alongside this the federal parliament has developed a more limited range of discrimination laws that operate across Australia. The federal laws expressly indicate that they are designed to operate in concert with the state and territory laws. So, for example, the Sex Discrimination Act 1984 (SDA) states in section 10(3):*

*"This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.'*

*"This indicates that the federal Act is not intended to 'cover the field' and therefore override any state or territory laws in the same area. It is not true to say that 'federal law always abides'.*

*"So, for example, the SDA provides an exemption from the operation of that Act for voluntary bodies (section 39), while the Anti-Discrimination Act 1998 (Tas) protects against discrimination by voluntary bodies, including, for example, in the specifically protecting against discrimination in the 'membership and activities of clubs': section 22(1(e)). 'Club' is defined in the Tasmanian Act as follows: 'club means an incorporated or unincorporated association of at least 30 persons associated together for a lawful purpose that provides and maintains its facilities, wholly or partly, from the funds of the association.'*

*"There is no suggestion that the protection under state law here is inoperative because the federal Act provides an exemption for that sector.*

*"Other exemptions found in the SDA similarly do not limit the operation of the Tasmanian Act."*

Thirdly, we note the views of the Australian Law Reform Commission as found in its report on the issue of discrimination in faith-based schools published in March 2024. This extract (with key points in bold) makes it clear that federal anti-discrimination laws do not restrict the operation of state laws. Put another way, the existence of relevant exemptions in federal law do not justify or excuse discrimination under a state law<sup>4</sup>.

**"MAXIMISING THE REALISATION OF HUMAN RIGHTS: RELIGIOUS EDUCATIONAL INSTITUTIONS AND ANTI-DISCRIMINATION LAWS"**

**"State and territory anti-discrimination laws"**

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<sup>4</sup> <https://www.alrc.gov.au/news/adl-final-report-tabled/> p 340

*"12.83 Each Australian state and territory has an equality or anti-discrimination law which covers essentially the same attributes as those protected under the Sex Discrimination Act. Most also prohibit discrimination on religious grounds. Unlike Commonwealth law, prohibitions on discrimination in each state and territory are generally found in a single Act, rather than being found across separate pieces of legislation."*

*"12.84 As noted above, Commonwealth, state, and territory laws that prohibit discrimination may overlap, and may differ in scope. Commonwealth anti-discrimination laws indicate that they are intended to operate concurrently with state and territory anti-discrimination laws, and a person may seek remedies under the law most favourable to them. In the context of this Inquiry, the practical effect of this is that, **if a state or territory law provides greater protection from discrimination than the Commonwealth Sex Discrimination Act (for example, because it has a more restrictive exception for religious educational institutions or covers additional attributes), religious educational institutions in that state or territory must comply with the more restrictive state or territory law.**"*

*"12.85 None of the state or territory anti-discrimination provisions that are relevant to the issues considered in this Inquiry are drafted in exactly the same way, nor are there any state or territory laws that are identical to the Sex Discrimination Act. However, all but one of the states and territories provides greater protection to students and staff from discrimination on the grounds contained in the Sex Discrimination Act (as well as the ground of religion) than that currently provided by Commonwealth law. Additionally, there is a trend towards crafting narrower exceptions for religious educational institutions."*

Are Catholic school counsellors forced to violate professional standards by CET's stance?

A further point arising from the evidence provided by Catholic Education Tasmania in February is in regard to its stance on gender identity.

Equality Tasmania has provided ample evidence showing trans and gender diverse young people benefit from being affirmed and suffer when their gender identity is disregarded.

We are therefore concerned about the stated position of Catholic Education Tasmania in regard to these students; that it will only recognise their birth name and birth sex.

We are also concerned about what this means for professional psychologists, counsellors and support workers employed in Catholic

schools. Their professional bodies and the standards under which they work take an affirming approach to gender identity. But their employer, Catholic Education Tasmania, does not.

Does this mean professional psychologists, counsellors and support workers are forced to adopt a position contrary to their professional standards? If not, how are these professional standards reconciled with CET's stance?

We urge the inquiry to gather information about whether the stance of CET places an expectation on professional psychologists, counsellors and support workers that they will be less than professional.

Is there any new Tasmanian research about discrimination and bullying in schools?

In short, yes.

We draw the inquiry's attention to two new pieces of Tasmanian research.

The first is a study of the impact of discriminatory language and practices on the wellbeing of LGBTIQ+ young people in faith-based schools. It was conducted by University of Tasmania researchers, Bronwyn Larkins, Doug Ezzy and Ange Dwyer and published last year. It found that:

*"Australian religious conservatives continue to argue that religiously affiliated schools should be able to discriminate based on the sexuality and/or gender identity of students. We argue that this discussion fails to adequately consider the serious harms that discrimination against LGBTQ+ educators has on LGBTQ+ and questioning students. The article uses data from an Australian qualitative study examining the experience of LGBTQ+ educators in religiously affiliated organisations. We describe how heteronormative/cisnormative discourses and discriminatory practices toward LGBTQ+ educators have a direct negative impact on LGBTQ+ students. Even in relatively inclusive schools, the heteronormative and cisnormative climate of the schools is damaging, not only for educators but also for LGBTQ+ students. These serious harms need to be given greater consideration in evaluating the arguments for discriminatory practices in religiously affiliated schools funded by the government to provide education to the general Australian population."*<sup>5</sup>

The second piece of research is a study of the effectiveness of Working It Out's LGBTIQ+ inclusion programs in Tasmanian schools. The study, named "Fix the system, not me" was released two weeks ago and was conducted by Sherridan Emery, Kim Beasy and Gemma Burns at the Peter Underwood Centre and the School for Education. It found that providing

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<sup>5</sup> <https://journals.sagepub.com/doi/full/10.1177/14407833241232682>

safe, supportive learning environments for young LGBTIQ+ Tasmanians improves their mental health and their adjustment to their school environment. The study has been included as attachment

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