

State of New Jersey Government Records Council Statement of Information Form

This form is to be used by Records Custodians as their response to a complaint filed with the Government Records Council ("GRC"), alleging an unlawful denial of access to government records under the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, *et seq.*

GENERAL INSTRUCTIONS:

1. The Records Custodian or the Custodian's Legal Counsel may complete the Statement of Information. **However, the *Records Custodian* must sign the Statement of Information.**
2. The GRC will also consider any legal briefs, additional documentation, or information submitted with the Statement of Information. **NOTE:** if an individual other than the Records Custodian handled/responded to the OPRA request at issue, that individual must also provide a separate certification.
3. If applicable, **DO NOT** include any communications that occurred during mediation regarding this matter. N.J.S.A. 2A:23C-2; N.J.A.C. 5:105-2.5(f) & (j).
4. Please do not staple the completed Statement of Information if returned by regular mail.
5. The signed Statement of Information shall be returned to:

Government Records Council
101 South Broad Street
P.O. Box 819
Trenton, NJ 08625-0819
Phone: (609) 292-6830
Fax: (609) 633-6337
Government.Records@dca.nj.gov

6. The Statement of Information must be completed and returned by no later than **five (5) business days** from receipt. Failure to comply with this deadline may result in the GRC adjudicating this complaint based only on the information submitted in the Denial of Access Complaint by the Requestor.
7. **A copy of this Statement of Information must be simultaneously provided to the Complainant.** N.J.A.C. 5:105-2.4(f).

DEFINITIONS: "Records request" or "request" refers to the formal OPRA request on which the complaint is based; "Requestor" or "Complainant" refers to the person who made the request at issue; "Agency" refers to the public agency or subdivision of that agency that is the subject of the OPRA request; and "Records Custodian" or "Custodian" refers to the individual officially designated to fulfill the OPRA request at issue.

PART 1: CONTACT INFORMATION

1. Name of Complainant: Caroline Rankovic (Twombly)
2. Name of Custodian: Emily Dillon
Job Title: Deputy City Clerk, City of Cape May
3. Custodian's Public Agency: City of Cape May
4. Address: 643 Washington Street, Cape May, NJ 08204

Phone: 609-884-9530

Fax:

E-mail: edillon@capemaycity.com

5. Name of Custodian's Legal Counsel: Christopher Gillin-Schwartz, Esq.

Counsel's Title: City Solicitor

Firm/Employer: Gillin-Schwartz Law LLC

Address: 1252 NJ Route 109

Cape May, NJ 08204

Phone: 609-884-0153

Fax:

E-mail: cgs@cgsesq.com

*** Note: Until the Custodian's Counsel submits a formal letter of representation to all parties, the GRC will communicate exclusively with the Custodian. See N.J.A.C. 5:105-1.3 & 2.2.**

PART 2: THE DENIAL OF ACCESS COMPLAINT

6. Attach a copy of the OPRA request at issue. Please mark this attachment "Item 6."
7. Indicate the date on which the Custodian received the OPRA request at issue (if the Custodian did not receive an OPRA request, simply indicate, "None received").

January 21, 2023

8. Indicate the date on which the Custodian responded to the OPRA request at issue. Provide all written documentation supporting the Custodian's response (if the Custodian did not respond to the OPRA request, simply indicate, "No response was given"). **IMPORTANT:** Do not provide any complete or excerpted records the Custodian claims are privileged or not accessible to the public under OPRA. A general description of the records' content will suffice. If additional pages are needed, please mark each page "Item 8."

January 26, 2023 requesting clarification to which there was no further response received

9. Pursuant to N.J.S.A. 47:1A-7(e) and the New Jersey Supreme Court's instruction in Paff v. N.J. Dep't of Labor, 392 N.J. Super. 334 (App. Div. 2007), the Custodian **must** provide a document index table containing the following information. The table **shall** be in the format presented below.

An example of the table format is as follows:

(A) List of all records responsive to Complainant's OPRA request (include # of pages for each record).	(B) List the Records Retention Period and Disposition Schedule for each responsive record to the Complainant's OPRA request.	(C) List of all records provided to Complainant, with redactions or in their entirety (include the date such records were provided).	(D) If records were disclosed with redactions give a general nature description of the redactions.	(E) If records were denied in their entirety give a general nature description of the record.	(F) List the legal explanation and statutory citation for the denial of access to records with redactions or in their entirety
Closed session minutes for the May 15, 2006 Council Meeting.	Must be retained by agency permanently. Disposition Schedule: May be archived only (destruction not allowed).	Closed session minutes provided with redactions on June 20, 2007 (3 business days after receiving the OPRA request).	Redactions were made only to delete the discussion of the Council members regarding the personnel matter of Jane Doe.	N/A	N.J.S.A. 47:1A-9(a)(allows exemptions from disclosure contained in other state statutes to apply under OPRA) and N.J.S.A. 10:4-12 (allows governing bodies to exclude the public from discussions of personnel matters).

The categories within the table above are described herein:

- A. An itemized list of all records responsive to the Complainant's OPRA request that were made, maintained, kept on file, or received by the Agency on the date of the request, regardless of whether the records were deemed exempt from disclosure.
- B. State the Agency's Records Retention Period (in years) and Disposition Schedule (in years) for each responsive record as established and approved by the New Jersey Department of Treasury, Records Management Services ("RMS").
- C. Indicate what records, if any, were provided to the Complainant, either in their entirety or with redactions, and the date(s) provided.
- D. Of the responsive records provided to the Complainant with redactions, give a general nature description of the redactions.
- E. Of the responsive records that were **not** provided to the Complainant at all, give a general nature description of the record.
- F. Specifically state the legal explanation and statutory citation (to OPRA or any other law that may apply) for such denial pursuant to N.J.S.A. 47:1A-6 and Paff v. NJ Dep't of Labor, 392 N.J. Super. 334 (App. Div. 2007). **DO NOT** encapsulate the Custodian's entire justification for denying access within this column; such information instead should be provided under "Item 12" below.

10. Specifically describe the search undertaken to satisfy the OPRA request at issue:

See 12

11. Specifically state the last date on which documents that may have been responsive to the request were destroyed in accordance with the Records Disposition Schedule established and approved by Records Management Services ("RMS"):

N/A

ITEM 9 TABLE

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Add List

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12. Provide all facts and legal arguments in support of the Custodian's actions with regard to the handling of the OPRA request at issue herein and/or on an attached written statement marked "Item 12."

On January 21, 2023, the complainant submitted a request to the Cape May City Clerk at "cityclerk@capemaycity.com". The January 21, 2023 request requests *"Emails between Superintendent and BOE CMES 11/1/2022-12/17/2022"* and further indicates *"The mayor and school superintendent both are aware of a civil rights issue taking place in the Cape May elementary school. I am requesting written correspondence between both public officials within the aforementioned time line and my OPRA request has not been answered and is long overdue, please advise."* The request includes a link to opramachine.com referencing a prior request.

On January 26, 2023, the undersigned Deputy City Clerk Emily Dillon responded to the complainant requesting clarification of the public officials to which the complainant was seeking records.

The City of Cape May (the City) and the Cape May City Board of Education (CMBOE) are distinct and separate public agencies. Accordingly, in an effort to determine whether there were any government records in the custody of the City that were potentially responsive to the request, the Deputy Clerk responded to the complainant seeking further clarification.

Pursuant to the GRC "Custodian's Toolkit", a custodian may be unsure of which specific records are being requested. OPRA allows a custodian to seek clarification from the requester when this is the case. A custodian's request for clarification must be in writing within the seven business day response time and the custodian's response time stops until the requester provides clarification. See Pg. 6-7. To date, the City has no record of any further response by the Complainant to the Deputy Clerk's January 26, 2023 request for clarification.

Notwithstanding the lack of a further response from the Complainant and the stoppage of time that applies, the City has included with this Statement of Information government records that may be responsive to the original request and with the City assuming that the Complainant is seeking emails between City of Cape May Mayor Zachary Mullock and Cape May City Board of Education Superintendent Zachary H. Palombo and/or Administrator John R. Thomas between 11/1/2022 through 12/17/2022. Records responsive to that are attached.

However, with regard to *"Email correspondence between Cape May City Elementary BOE and Superintendent. Email correspondence between School Nurse of CMES and Superintendent"* **there are no responsive records in the custody of the City. The Complainant may direct this request to the CMBOE.** The City is amenable to mediation in an effort to resolve any further confusion.

If the Custodian fails to complete this form completely and accurately (responding to each numbered item specifically as directed and providing a document index in table format), this form shall be returned to the Custodian for proper completion, thus prolonging the adjudication of the complaint.

By signing this Statement of Information, I certify under penalty of perjury that:

- I am the Custodian charged by the public agency with the responsibility for responding to the request for records on which this complaint is based; or
- I am the alleged Custodian of an organization that I do not believe is subject to the provisions of OPRA;
- The documents attached hereto are true copies of all documents sent or received by the Custodian or the Custodian's staff (records the custodian claims are privileged or not accessible to the public under OPRA are **not** included);
- A copy of this Statement of Information will be provided to the Complainant and the GRC simultaneously; and
- The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment pursuant to the New Jersey Court Rule 1:4-4.

Signature:

Emily Dillon

Printed Name:

Emily Dillon

Job Title:

Deputy City Clerk, Records Custodian for the City of Cape May

Date:

3/2/2023

New Jersey Government Records Council
Agreement to Mediate
GRC Complaint No. 20XX-XX 2023-3

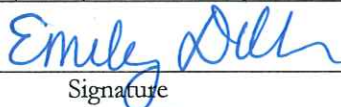
By participating in mediation, I/we agree:

1. To engage in a good faith effort to resolve the above referenced complaint filed with the Government Records Council ("GRC") concerning access to records or related matters described in the Complaint;
2. That I will abide by any procedural rules set forth by the mediator. Such rules may include the establishment of a timetable for completion of mediation and/or phases of the mediation, a requirement that the parties periodically reduce settled issues to writing, a requirement that the parties personally meet with the mediator at a mutually convenient time and place and such other reasonable procedural rules deemed by the mediator to facilitate the mediation process.
3. That all discussions and documents arising during mediation are confidential unless otherwise legally obtainable. Documents provided in mediation cannot be used in a GRC hearing or appeal from a GRC determination unless those documents are public records or the party with control over the documents consents to their use in such a proceeding. Conversations with the mediator or with the other party during mediation will not constitute statements that can be used in a later GRC hearing or appeal from a GRC determination;
4. That I will not subpoena the mediator to testify or to produce any mediation materials whatsoever following the mediation. I acknowledge that the mediator will not testify on behalf of any party in any pending or future administrative or judicial proceeding, or disclose any information obtained during mediation unless the parties expressly consent to such disclosure, or unless law or court order requires disclosure. I further agree that the mediator will be held harmless for any claim arising from the mediation process;
5. That the mediation session will not be recorded (either video or audio) and that no transcript of the session will be produced;
6. That the mediator will not decide who is right or wrong, and that I shall not ask the mediator to act as my advocate. I acknowledge that the mediator will try to help the parties reach their own resolution of this dispute by encouraging discussion; however, if the mediator determines that the mediation process is no longer productive the mediator may unilaterally terminate said mediation and refer the matter back to the GRC for further processing;
7. That when a settlement is reached, it shall be put in writing and signed, and shall be binding upon all parties to the agreement. A copy shall be provided to the GRC. If the complaint is not resolved during mediation, the complaint will be transferred to the GRC for further processing.

The parties to this agreement, whose names and signatures appear below, are the only persons authorized to participate in the mediation process. The principal's representative, if any, affirms that he/she is authorized to act by, and on behalf of, the principal;

☒ YES, I want to participate in mediation.	☐ NO, I do not want to participate in mediation.
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EMILY DILLON, DEPUTY CITY CLERK



3/2/2023

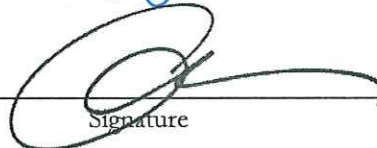
Name of Principal (Please Print)

Signature

Date

☐ I am the Complainant ☒ I am the Custodian

CHRISTOPHER GILLIN-SCHWARTZ, ESQ.



03/01/2023

Name of Legal Representative (Please Print)

Signature

Date

Name of Representative (Please Print)

Signature

Date

Gillin Schwartz | Law

Christopher Gillin-Schwartz, Esq.
cgs@cgsesq.com

Gillin-Schwartz Law, LLC
1252 NJ Route 109
Cape May, New Jersey 08204
609-884-0153
www.cgsesq.com

March 2, 2023

Government Records Council
c/o Samuel A. Rosado, Esq. Samuel.Rosado@dca.nj.gov
101 South Broad Street
PO Box 819
Trenton, New Jersey 08625-0819

Re: Caroline Rankovic (Twombly) v. City of Cape May,
GRC Complaint No. 2023-3

Dear Mr. Rosado:

Please accept this letter brief as a supplement to the City's Statement of Information filed in response to Ms. Rankovic's Denial of Access Complaint in the above referenced matter.

On January 21, 2023, the complainant submitted a request to the Cape May City Clerk at "cityclerk@capemaycity.com". The January 21, 2023 request requests (1) *"Emails between Superintendent and BOE CMES 11/1/2022-12/17/2022"* and further indicates *"The mayor and school superintendent both are aware of a civil rights issue taking place in the Cape May elementary school. I am requesting written correspondence between both public officials within the aforementioned timeline and my OPRA request has not been answered and is long overdue, please advise."* The request includes a link to opramachine.com referencing a prior request.

On January 26, 2023, Deputy City Clerk Emily Dillon responded to the complainant requesting clarification of the public officials to which the complainant was seeking records.

The City of Cape May (the City) and the Cape May City Board of Education (CMBOE) are distinct and separate public agencies. Accordingly, in an effort to determine whether there were any government records in the custody of the City that were potentially responsive to the request (as opposed to CMBOE which is a separate entity), the Deputy Clerk responded to the complainant seeking further clarification.

Pursuant to the GRC *"Custodian's Toolkit"*, a custodian may be unsure of which specific records are being requested. OPRA allows a custodian to seek clarification from the requester when this is the case. A custodian's request for clarification must be in writing within the seven business day response time and the custodian's response time stops until the requester provides clarification. See Pg. 6-7. To date, the City has no record of any further response by the Complainant to the Deputy Clerk's January 26, 2023 request for clarification.

Notwithstanding the lack of a further response from the Complainant and the stoppage of time that applies, (and that this GRC complaint may be dismissed for lack of ripeness and exhausting administrative remedies) - the City has, in good faith, included with this Statement of Information government records that may be responsive to the original request and with the City *assuming* that the Complainant is seeking emails between City of Cape May Mayor Zachary Mullock and Cape May City Board of Education Superintendent Zachary H. Palombo and/or Administrator John R. Thomas between 11/1/2022 through 12/17/2022. To the extent this is the intended scope of the request, the City is providing any responsive records with its response.

However, with regard to (2) "*Email correspondence between Cape May City Elementary BOE and Superintendent.*" and (3) "*Email correspondence between School Nurse of CMES and Superintendent*" there are **no responsive records in the custody of the City**. The Complainant may direct this request to the CMBOE.

In an effort to bring resolution to any further confusion, the City indicates in the attached form that it is amenable mediation. However, to the extent the supplemental information contained herein and attached hereto addresses the intended scope of the request, the City of Cape May respectfully requests (1) that the Complainant withdraw their complaint or (2) in the alternative, the GRC deny the complaint for the reasons set forth herein.

Sincerely, .

GILLIN-SCHWARTZ LAW

CHRISTOPHER GILLIN SCHWARTZ



cc: City Clerk, the City of Cape May

From: Allison Crowther <acrowther@cmcboe.net>
Sent: Wednesday, November 2, 2022 7:16:51 PM
To: Mayor Zachary Mullock <zmullock@capemaycity.com>
Subject: Re: Family Fun Night at Cape May City Elementary School

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Zack,

Happy you can make it. Should be a fun event.

See you tomorrow around 5:30.

Thanks again, Allison

On Wednesday, November 2, 2022, Mayor Zachary Mullock <zmullock@capemaycity.com> wrote:
Allison,
Very sorry I didn't see this. Justine reminded me so thank you!
I'd be happy to if you still need anyone
Thanks again

Zack Mullock

On Oct 24, 2022, at 10:20 AM, Allison Crowther <acrowther@cmcboe.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Mr. Mullock,

I am reaching out to you today to see if you're available next Thursday night (11/3) to be a "special reader" for our Family Fun Night. We will have the Scholastic Book Fair open and dinner for our families and it would be great if you could come and read to our students. Family Fun Night will be next Thursday, November 3rd from 5:30-7pm.

Hope to hear from you soon!

Thanks so much!
Allison Crowther, MSW
School Social Worker/CST Case Manager
acrowther@cmcboe.net
609-884-8485 ext. 254

CM000001

--

Allison Crowther, MSW
School Social Worker/CST Case Manager
acrowther@cmcboe.net
609-884-8485 ext. 254

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From: John Thomas <jthomas@cmcboe.net>
Sent: Saturday, November 5, 2022 9:59:19 AM
To: office@cmcboe.net <office@cmcboe.net>
Subject: [NOTICE] November 2022 Regular Monthly Meeting - November 8, 2022

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John Thomas, SBA/BS
Cape May City Board of Education
921 Lafayette Street
Cape May, NJ 08204-1646
609-884-8485 x225
609-884-7037 fax

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CM000002



CAPE MAY CITY BOARD OF EDUCATION

Zachary H. Palombo
Superintendent

John R. Thomas
Business Administrator &
Board Secretary

Board Members

Dawn M. Austin, President
Sharon Lee Kustra, Vice President
Edward B. Connolly
Anita de Satnick
Shaun Deignan
Mark J. Le Munyon
Joseph McKenna
Larry Reed
Thomas Rippman

NOTICE REGULAR MONTHLY MEETING

The re-scheduled November meeting of the Cape May City Board of Education will be held on Tuesday, October 8, 2022, at 6:30 p.m. in the Auditorium of the Cape May City Elementary School, 921 Lafayette Street, Cape May, New Jersey.

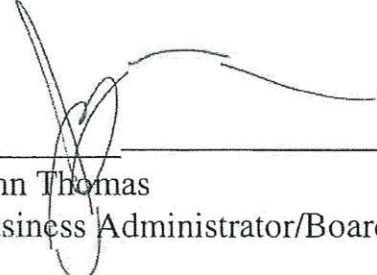
The Board will hold a work session open to the public at 6:00 p.m. to discuss agenda items and any other items which Board Members may raise for discussion. No formal action is planned during this work session, but be advised, action can be taken at a work session meeting.

The anticipated agenda for this meeting is as follows:

General Business (Please refer to attached materials.)
Any and all matters brought before the Board

All attendees should continue to appropriately social distance. The wearing of a face mask is now optional, and masks will be available on-site for your convenience.

NOTE: Entry to the school can only be made through the main school entrance, facing Lafayette Street..
All other school doors are locked..



John Thomas
Business Administrator/Board Secretary

Dated: October 3, 2022



"To Achieve Excellence in Partnership with Family and Community."



NOVEMBER 2022 REGULAR MONTHLY MEETING

11/08/2022 [06:00 PM] @ Cape May City Elementary School Auditorium
921 Lafayette St, Cape May, NJ 08204

WORK SESSION MEETING AGENDA

1. Call to Order
2. Students of the Month - September / October 2022
3. Presentation - NJSLA 2021-2022
4. Discussion - Goals for 2022-23
5. Discussion - Agenda Items
6. Discussion - Non Agenda Items
7. Adjourn



NOVEMBER 2022 REGULAR MONTHLY MEETING

11/08/2022 [06:30 PM] @ Cape May City Elementary School Auditorium
921 Lafayette St, Cape May, NJ 08204

REGULAR MONTHLY MEETING AGENDA

1. CALL TO ORDER

- 1.a. Opening Statement
- 1.b. Flag Salute
- 1.c. Roll Call
- 1.d. Announcements

2. PUBLIC COMMENT - AGENDA ITEMS ONLY

3. SUPERINTENDENT'S REPORT

- 3.a. Monthly H.I.B. Reporting
- 3.b. Annual H.I.B. Reporting

4. ITEMS FOR BOARD ACTION

- 4.a. Motion to approve meeting minutes
- 4.b. RESOLUTION #04-23
- 4.c. RESOLUTION #05-23

5. COMMITTEE REPORTS

- 5.a. FINANCE COMMITTEE
- 5.b. LEGISLATIVE
- 5.c. PUBLIC RELATIONS
- 5.d. POLICY
- 5.e. FACILITY & GROUNDS
- 5.f. NEGOTIATIONS
- 5.g. PERSONNEL

6. PERSONNEL ACTION ITEMS

- 6.a. Motion to ratify professional development
- 6.b. Motion to approve professional development/travel
- 6.c. Motion to approve CMC Health Dept Training
- 6.d. Motion to approve staff reimbursement
- 6.e. Motion to approve substitute staff
- 6.f. Motion to accept resignation

7. SUPERINTENDENT / BUSINESS ADMINISTRATOR ITEMS FOR BOARD CONSIDERATION

- 7.a. Staff Monthly Reports
- 7.b. CONSENT AGENDA
- 7.c. Resolution # 03-23
- 7.d. Motion to approve special ed student contract
- 7.e. Motion to approve student assemblies
- 7.f. Approve walking trip
- 7.g. Motion to approve use of facility requests
- 7.h. Motion to approve transportation agreement
- 7.i. Motion to approve off-campus school event

8. ADDITIONAL ITEMS FOR BOARD ACTION

9. CORRESPONDENCE

10. OLD BUSINESS

11. NEW BUSINESS

12. RECEIVE COMMENTS FROM THE PUBLIC IN ACCORDANCE WITH THE BOARD'S POLICY ON PARTICIPATION AT BOARD MEETINGS

13. ADJOURN

From: John Thomas <jthomas@cmcboe.net>

Sent: Saturday, November 5, 2022 1:58:22 PM

To: office@cmcboe.net <office@cmcboe.net>

Subject: [REVISED NOTICE] November 2022 Regular Monthly Meeting - November 8, 2022

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



Zachary H. Palombo
Superintendent

John R. Thomas
Business Administrator &
Board Secretary

CAPE MAY CITY BOARD OF EDUCATION

Board Members

Diana M. Austin, President
Sharon Lee Kautza, Vice President
Edward B. Connelly
Anna de Senne
Sharon Desjardis
Mark J. LeMansue
Joseph McGinnis
Larry Reed
Thomas Zappala

NOTICE REGULAR MONTHLY MEETING

The re-scheduled November meeting of the Cape May City Board of Education will be held on Tuesday, NOVEMBER 8, 2022, at 6:30 p.m. in the Auditorium of the Cape May City Elementary School, 921 Lafayette Street, Cape May, New Jersey.

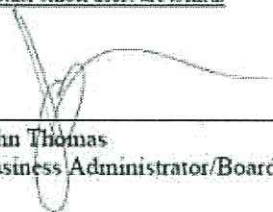
The Board will hold a work session open to the public at 6:00 p.m. to discuss agenda items and any other items which Board Members may raise for discussion. No formal action is planned during this work session, but be advised, action can be taken at a work session meeting.

The anticipated agenda for this meeting is as follows:

General Business (Please refer to attached materials.)
Any and all matters brought before the Board

All attendees should continue to appropriately social distance. The wearing of a face mask is now optional, and masks will be available on-site for your convenience.

NOTE: Entry to the school can only be made through the main school entrance, facing Lafayette Street. All other school doors are locked.


John Thomas
Business Administrator/Board Secretary

Dated: November 3, 2022



"To Achieve Excellence in Partnership with Family and Community."

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CM000007

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