



Legal Considerations for Employing Minors

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Seyfarth Shaw LLP

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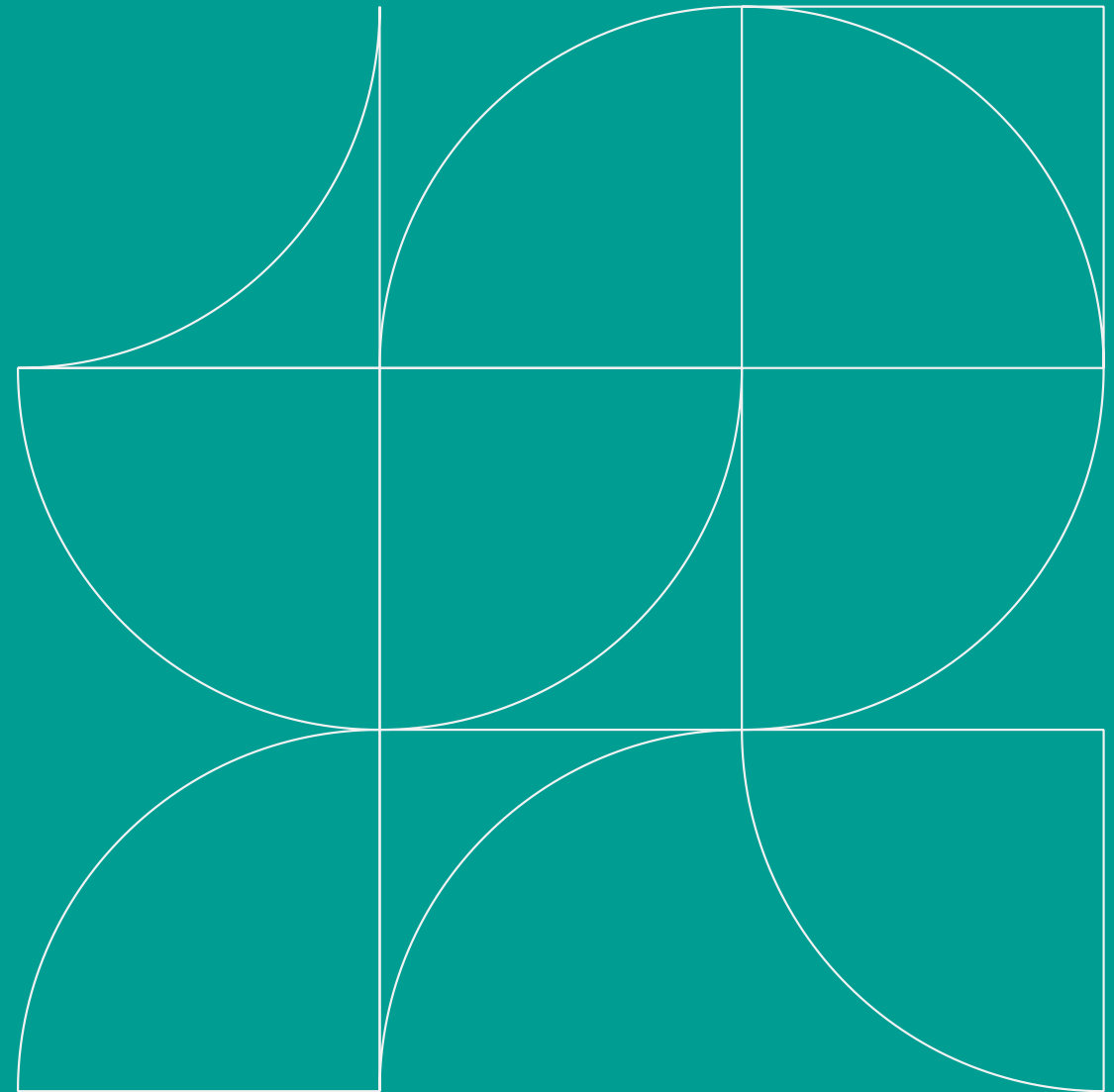


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Overview for Today

- 1 | Onboarding Minor Employees
- 2 | FLSA Notice Requirements
- 3 | Working Hours' Restrictions
- 4 | State-Specific Nuances
- 5 | Government Initiatives, Enforcement, and Exposure
- 6 | Questions?

Onboarding Minor Employees



“The youth is the most vulnerable population with respect to employment laws, they are often targeted and fail to follow the laws.” – EEOC Bulletin

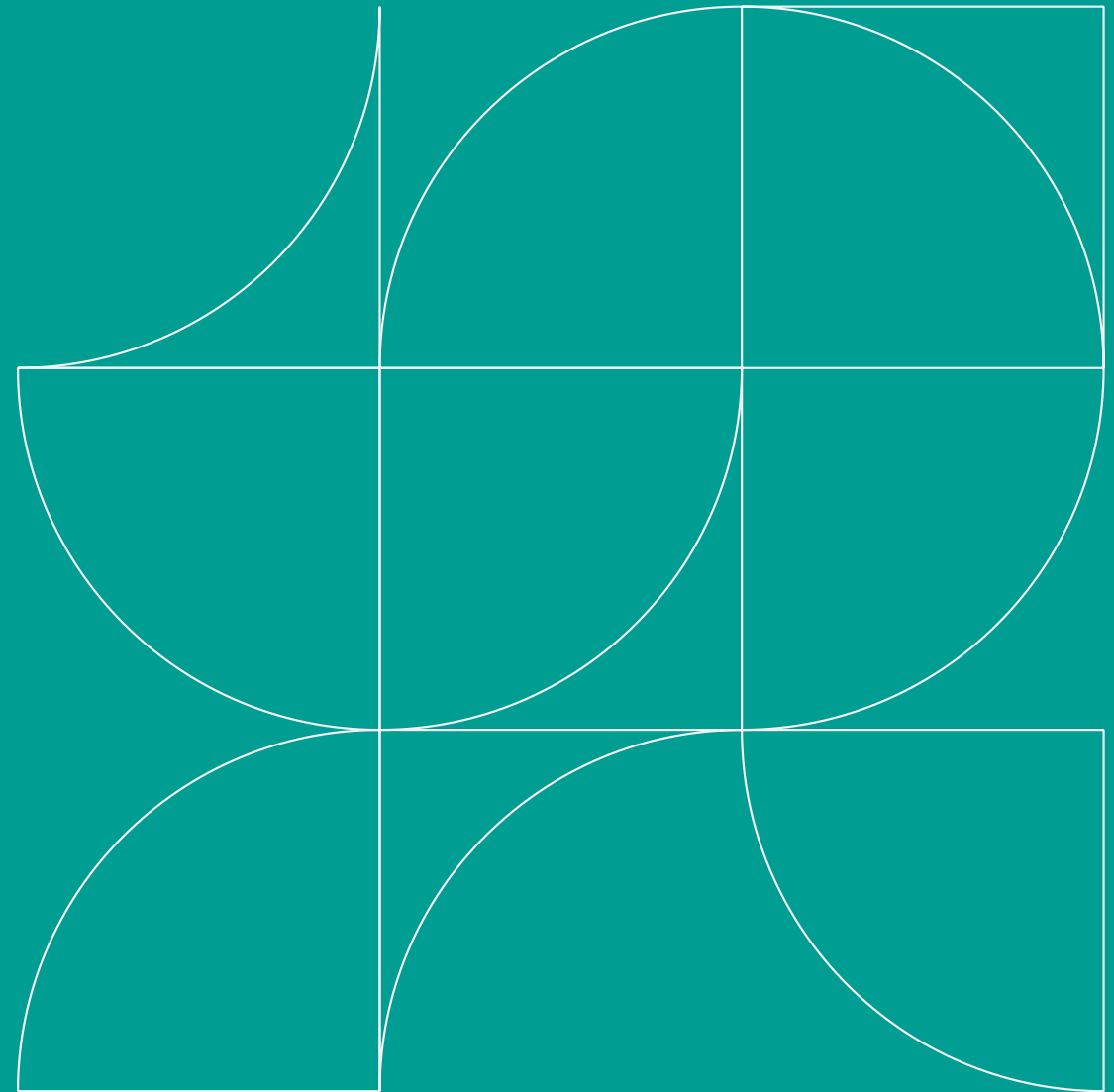
Onboarding / Employee Population

- Conviction Questions / Ban the Box
 - Most states have a ban the box question
 - The job duties may not necessitate certain questions, but employee population could
- Onboarding / Training
 - May be employee's first job and they do not understand laws
- Sexual Harassment Reporting and Procedures
 - Need multiple avenues that are accessible

Should I Pay My Intern?

- Often, minor employment comes in the form of internships.
- Is this a job that would otherwise be filled by an employee?
- Hourly, stipends, weekly rate? Compensation can be unique in internships.
- The “Intern Paid Test”
 - Is educational credit being given?
 - Primary beneficiary test
 - US DOL has a 7-factor fact sheet
- Important that wage hour laws are complied with just like all other W-2 employees.

FLSA Notice Requirements

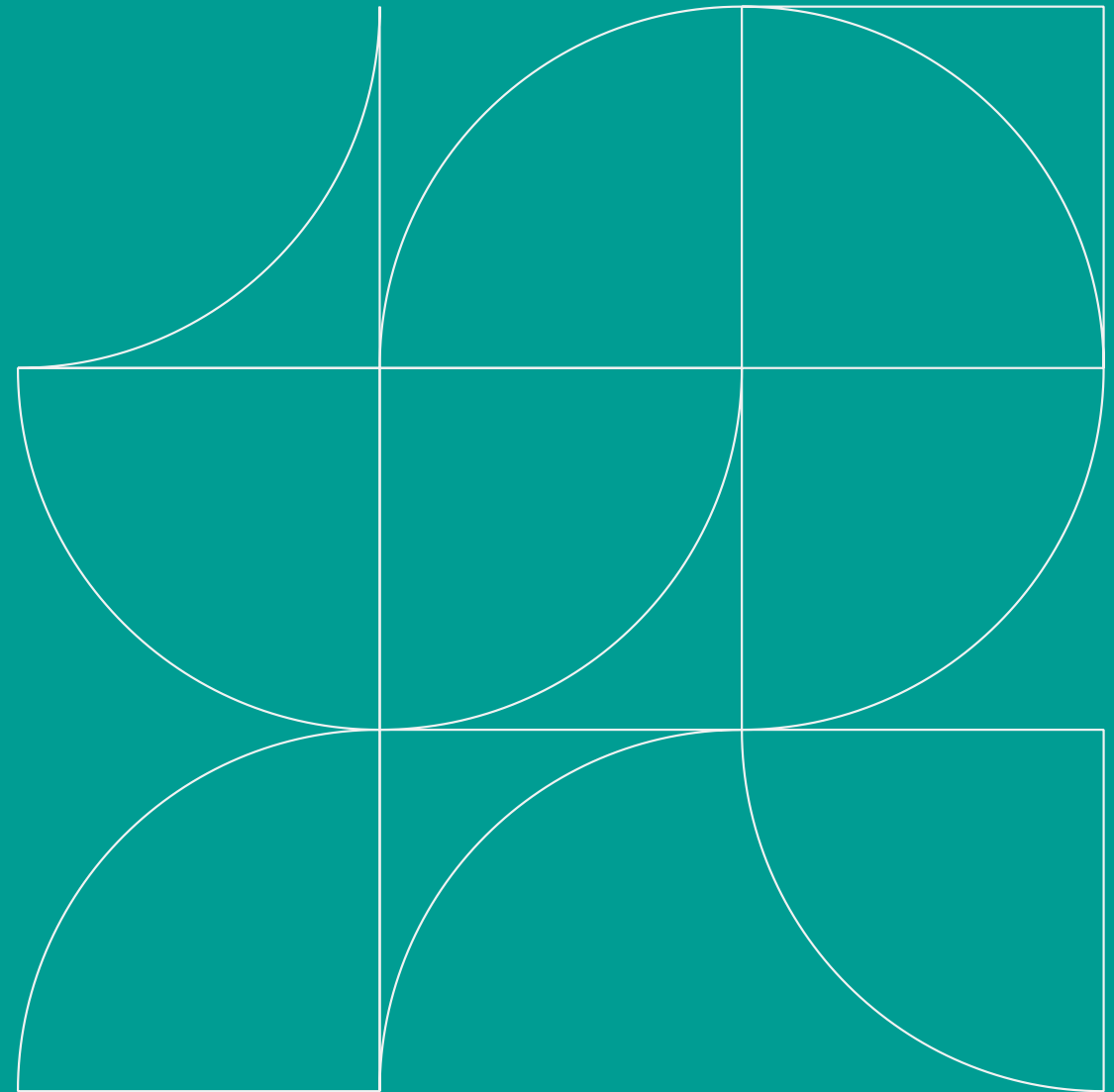


DOL's Recommended Best Practices



- Train Management
- Distribute Resources
- Build Trust
- Provide Different Name Tags
- Post Warnings
- Use Signage
- Spotlight Hazards

Working Hours' Restrictions

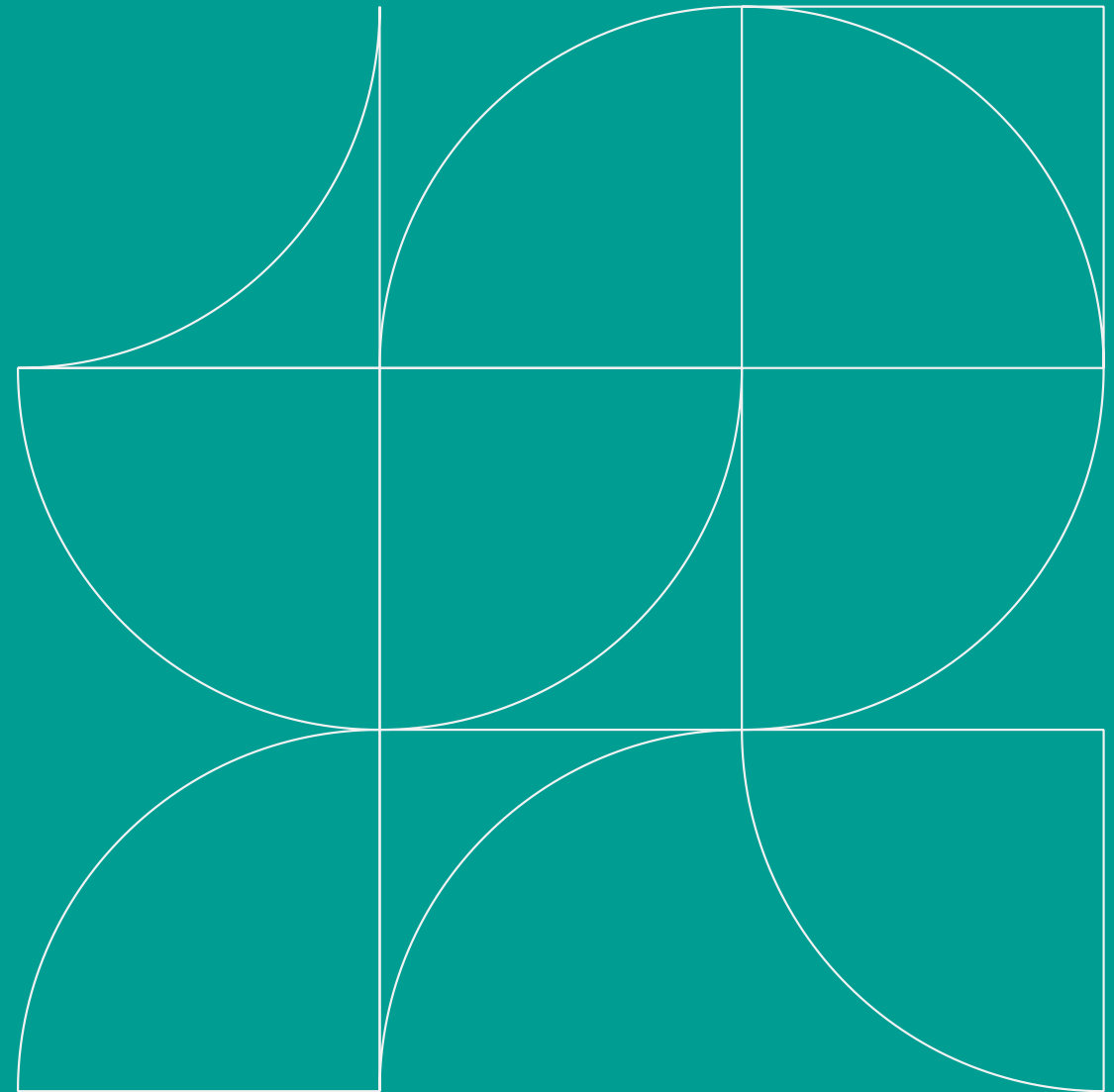




Restricted Hours for Children 14-15

- Federal laws apply to 14- and 15-year-old children, the timing of their work, and the industries in which they may work.
- No more than 3 hours on a school day.
- No more than 8 hours on a non-school day.
- No more than 18 hours per week during school.
- No more than 40 hours per week when school is not in session.
- 7:00 am – 7:00 pm limitations, **when school is out of session can work until 9:00 pm.**
- Different laws apply to agriculture and farming.

State-Specific Nuances

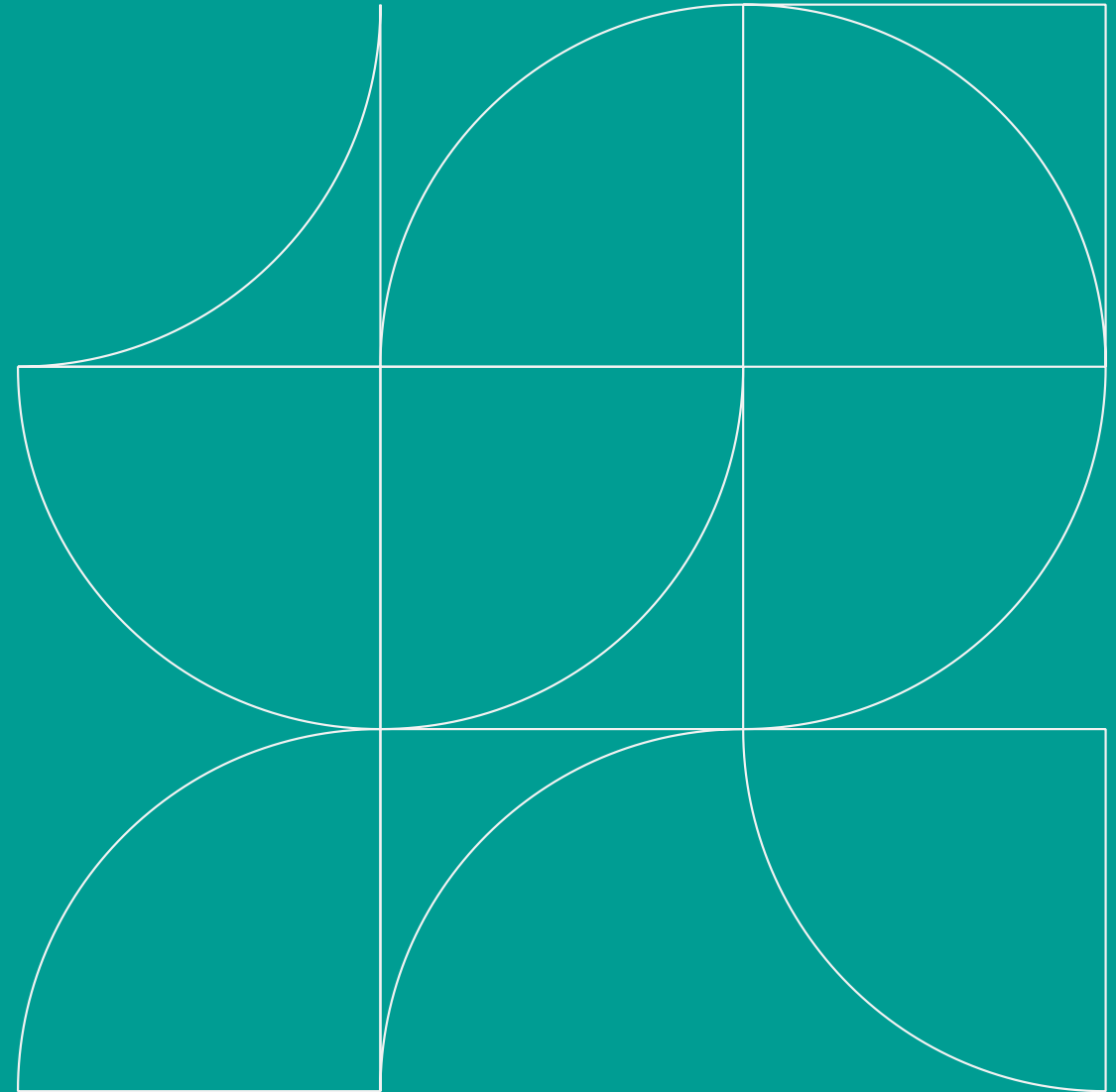




Current Initiatives and Recent Focus on Child Labor

- Every state has rules surrounding Child Labor Laws.
- Some states have more restrictions than others and go up to age 18.
- Some states have rules surrounding meal and rest breaks.
- Some state laws are more ambiguous on when summer or school is out of session and defer to school calendars.
- Others have specific dates that do not necessarily line up with school calendars – **BE CAREFUL.**

Government Initiatives, Enforcement, and Exposure





Current Initiatives and Recent Focus on Child Labor

- DOL's partnered with HHS beginning in February 2023.
- In November 2023, DOL's Wage and Hour Division issued a new Field Assistance Bulletin revising the way it calculates civil money penalties.
- Frequent press regarding investigatory findings and consent judgments.
- Congress has also introduced bills to strengthen child labor protections/penalties.

Department of Labor Investigations

- Less commonly raised in lawsuits, typically see legal claims brought through DOL Investigations.
- One of the first questions asked during an investigation.
- Proof required if there are minors almost immediately.
- Managers are often reliant about minors' words and schedule.

Child Labor By the Numbers



Child Labor By the Numbers (Cont'd)

U.S. DOL Child Labor Enforcement Statistics				
	FY 2023	FY 2022	FY 2021	FY 2020
<i>Cases With Child Labor Violations</i>	955	835	747	851
<i>Minors Employed In Violation</i>	5,792	3,876	2,819	3,395
<i>Minors Per Case</i>	6	5	4	4
<i>Cases With Hazardous Occupation Violations</i>	196	216	208	266
<i>Minors Employed In Violation of Hazardous Occupation</i>	502	688	545	633
<i>Child Labor Civil Money Penalties</i>	\$8,039,728	\$4,386,205	\$3,262,796	\$3,578,081

Field Assistance Bulletin No. 2023-4

- New assessment procedures for nonserious injury and noninjury child labor CMP calculations.
- Part of Strategic Initiative to battle child labor abuses.
- Now assessing CMPs on a *per violation* – rather than per child – basis.
- WHD will consider gravity to calculate an initial CMP, including adjustments based on any aggravating or mitigating factors.
- The Division also considers business size and the objectives of the FLSA to finalize its CMP assessments.

Field Assistance Bulletin No. 2023-3

- The FLSA prohibits shipment of “**hot goods.**”
- WHD can ask a business to **voluntarily refrain from shipping hot goods** until violations are corrected.
- If the business doesn’t agree, the Division can pursue a **TRO, preliminary injunction, or permanent injunction** in U.S. District Court.
- DOL can:
 - compel through court order downstream producers, manufacturers, or dealers in possession of the goods to stop shipment.
 - notify anyone who may receive or purchase the goods that further shipment may violate the FLSA.
- DOL can **assess CMPs and seek enhanced compliance** for hot goods violations.



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Questions?

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