

116TH CONGRESS
1ST SESSION

S. 1401

To establish eligibility requirements for education support professionals under the Family and Medical Leave Act of 1993, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2019

Ms. DUCKWORTH introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish eligibility requirements for education support professionals under the Family and Medical Leave Act of 1993, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ESP Family Leave
5 Act”.

6 **SEC. 2. ELIGIBILITY FOR EDUCATION SUPPORT PROFES-**
7 **SIONALS.**

8 Section 101(2) of the Family and Medical Leave Act
9 of 1993 (29 U.S.C. 2611(2)) is amended by adding at the
10 end the following:

1 “(E) EDUCATION SUPPORT PROFES-
2 SIONALS.—

3 “(i) DETERMINATION.—For purposes
4 of determining whether an employee who is
5 an education support professional meets
6 the hours of service requirement specified
7 in subparagraph (A)(ii), the employee will
8 be considered to meet the requirement if
9 the employee has worked a number of
10 hours equal to not less than 60 percent of
11 the applicable total monthly hours expected
12 for the employee’s job description and du-
13 ties, as assigned for the previous school
14 year.

15 “(ii) FILE.—Each employer of an
16 education support professional shall main-
17 tain on file with the Secretary (in accord-
18 ance with such regulations as the Sec-
19 retary may prescribe) information speci-
20 fying the total monthly hours expected for
21 the employee’s job description and duties
22 for each school year.

23 “(iii) DEFINITIONS.—

24 “(I) EDUCATION SUPPORT PRO-
25 FESSIONAL.—In this subparagraph,

1 the term ‘education support profes-
2 sional’ means an employee within a
3 public school or public institution of
4 higher education, which may in-
5 clude—

6 “(aa) paraeducators that
7 provide instructional and non-in-
8 structional support;

9 “(bb) secretarial, clerical,
10 and administrative support staff;

11 “(cc) custodians and mainte-
12 nance service workers that pro-
13 vide building and grounds main-
14 tenance and repair;

15 “(dd) skilled trade workers
16 that provide services in schools,
17 such as electricians, carpenters,
18 and workers who operate machin-
19 ery;

20 “(ee) workers who provide
21 food service, including prepara-
22 tion and serving of food;

23 “(ff) workers who provide
24 school transportation and deliv-
25 ery services;

1 “(gg) computer, audiovisual,
2 and language technical support
3 staff;

4 “(hh) security staff;

5 “(ii) nursing, health, and
6 therapy support staff, who may
7 also provide community, family,
8 parent and welfare services; and

9 “(jj) other staff that may
10 serve public education students.

11 “(II) PUBLIC SCHOOL.—In this
12 subparagraph, the term ‘public school’
13 means a school that is maintained at
14 public expense for the education of
15 the children of a community or dis-
16 trict and that constitutes a part of a
17 system of free public education com-
18 monly including primary and sec-
19 ondary schools, including special edu-
20 cation cooperatives, alternative
21 schools, and other similar facilities.

22 “(III) PUBLIC INSTITUTION OF
23 HIGHER EDUCATION.—In this sub-
24 paragraph the term ‘public institution
25 of higher education’ means an institu-

1 tion of higher education, as defined in
2 section 101 of the Higher Education
3 Act of 1965 (20 U.S.C. 1001), that is
4 funded, at least partly, by State tax-
5 payers.”.

6 **SEC. 3. ENTITLEMENT TO LEAVE.**

7 Section 102(a) of the Family and Medical Leave Act
8 of 1993 (29 U.S.C. 2612(a)) is amended by adding at the
9 end the following:

10 “(6) CALCULATION OF LEAVE FOR EDUCATION
11 SUPPORT PROFESSIONALS.—The Secretary may pro-
12 vide a method for calculating the leave described in
13 paragraph (1) with respect to employees described in
14 section 101(2)(E).”.

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