

117TH CONGRESS
1ST SESSION

S. 2821

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

SEPTEMBER 23, 2021

Ms. DUCKWORTH (for herself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. COONS) 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”.

1 **SEC. 2. ELIGIBILITY FOR EDUCATION SUPPORT PROFES-**
 2 **SIONALS.**

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

6 “(F) EDUCATION SUPPORT PROFES-
 7 SIONALS.—

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

20 “(ii) FILE.—Each employer of an
 21 education support professional shall main-
 22 tain on file with the Secretary (in accord-
 23 ance with such regulations as the Sec-
 24 retary may prescribe) information speci-
 25 fying the total monthly hours expected for

1 the employee's job description and duties
2 for each school year.

3 “(iii) DEFINITIONS.—

4 “(I) EDUCATION SUPPORT PRO-
5 FESSIONAL.—In this subparagraph,
6 the term ‘education support profes-
7 sional’ means an employee within a
8 public school or public institution of
9 higher education, which may in-
10 clude—

11 “(aa) paraeducators that
12 provide instructional and non-in-
13 structional support;

14 “(bb) secretarial, clerical,
15 and administrative support staff;

16 “(cc) custodians and mainte-
17 nance service workers that pro-
18 vide building and grounds main-
19 tenance and repair;

20 “(dd) skilled trade workers
21 that provide services in schools,
22 such as electricians, carpenters,
23 and workers who operate machin-
24 ery;

1 “(ee) workers who provide
2 food service, including prepara-
3 tion and serving of food;

4 “(ff) workers who provide
5 school transportation and deliv-
6 ery services;

7 “(gg) computer, audiovisual,
8 and language technical support
9 staff;

10 “(hh) security staff;

11 “(ii) nursing, health, and
12 therapy support staff, who may
13 also provide community, family,
14 parent and welfare services; and

15 “(jj) other staff that may
16 serve public education students.

17 “(II) PUBLIC SCHOOL.—In this
18 subparagraph, the term ‘public school’
19 means a school that is maintained at
20 public expense for the education of
21 the children of a community or dis-
22 trict and that constitutes a part of a
23 system of free public education com-
24 monly including primary and sec-
25 ondary schools, including special edu-

1 cation cooperatives, alternative
 2 schools, and other similar facilities.

3 “(III) PUBLIC INSTITUTION OF
 4 HIGHER EDUCATION.—In this sub-
 5 paragraph the term ‘public institution
 6 of higher education’ means an institu-
 7 tion of higher education, as defined in
 8 section 101 of the Higher Education
 9 Act of 1965 (20 U.S.C. 1001), that is
 10 funded, at least partly, by State tax-
 11 payers.”.

12 **SEC. 3. ENTITLEMENT TO LEAVE.**

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

16 “(6) CALCULATION OF LEAVE FOR EDUCATION
 17 SUPPORT PROFESSIONALS.—The Secretary may pro-
 18 vide a method for calculating the leave described in
 19 paragraph (1) with respect to employees described in
 20 section 101(2)(F).”.

○