

117TH CONGRESS
1ST SESSION

H. R. 5348

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2021

Mr. CASTEN (for himself, Mr. LYNCH, Ms. DEAN, Ms. NORTON, Mr. SAN NICOLAS, Mr. FOSTER, Mr. GARCÍA of Illinois, Ms. PINGREE, Mr. FITZPATRICK, and Mrs. HAYES) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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

the employee’s job description and duties
for each school year.

“(iii) DEFINITIONS.—

“(I) EDUCATION SUPPORT PROFESSIONAL.—In this subparagraph, the term ‘education support professional’ means an employee within a public school or public institution of higher education, which may include—

“(aa) paraeducators that provide instructional and non-instructional support;

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

“(cc) custodians and maintenance service workers that provide building and grounds maintenance and repair;

“(dd) skilled trade workers that provide services in schools, such as electricians, carpenters, and workers who operate machinery;

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).”.

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