

114TH CONGRESS
2D SESSION

S. 3444

To clarify the hours of service requirements for education support professionals.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2016

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

A BILL

To clarify the hours of service requirements for education support professionals.

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 “Education Support
5 Professional Family Medical Leave Act”.

6 **SEC. 2. DEFINITIONS.**

7 Section 101(2) of the Family and Medical Leave Act
8 of 1993 (29 U.S.C. 2611(2)) is amended by adding at the
9 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, during the pre-
10 vious 12-month period specified in that
11 subparagraph, not less than an average
12 of—

13 “(I) 60 hours a month, for the
14 employer with respect to whom leave
15 is requested under section 102; or

16 “(II) 60 percent of the applicable
17 total monthly hours expected for the
18 employee’s job description and duties
19 (as assigned for the school year pre-
20 ceding the school year during which
21 the hours of service are calculated),
22 per month for that employer.

23 “(ii) DEFINITIONS.—In this subpara-
24 graph:

1 “(I) EDUCATION SUPPORT PRO-
 2 FESSIONAL.—The term ‘education
 3 support professional’ means an em-
 4 ployee, of a public elementary or sec-
 5 ondary school or public institution of
 6 higher education, that may include—

7 “(aa) a paraeducator that
 8 provides instructional or non-
 9 instructional support; and

10 “(bb) a member of the sec-
 11 retarial, clerical, or administra-
 12 tive support staff.

13 “(II) PUBLIC ELEMENTARY OR
 14 SECONDARY SCHOOL.—The term ‘pub-
 15 lic elementary or secondary school’
 16 means a public school that is an ele-
 17 mentary school or secondary school
 18 under section 8101 of the Elementary
 19 and Secondary Education Act of 1965
 20 (20 U.S.C. 7801).

21 “(III) PUBLIC INSTITUTION OF
 22 HIGHER EDUCATION.—The term ‘pub-
 23 lic institution of higher education’
 24 means an institution of higher edu-
 25 cation (as defined in section 101 of

1 the Higher Education Act of 1965 (20
2 U.S.C. 1001)) whose funding comes
3 at least partly from State taxpayers.”.

4 **SEC. 3. CALCULATION OF LEAVE.**

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

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

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