

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.

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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

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## 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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