

118TH CONGRESS  
1ST SESSION

# S. 226

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2023

Ms. DUCKWORTH (for herself, Mr. COONS, Mr. LUJÁN, Mr. DURBIN, Ms. KLOBUCHAR, and Mrs. GILLIBRAND) 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 and school support staff 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 AND SCHOOL SUPPORT STAFF.**

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 AND SCHOOL SUPPORT STAFF.—

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.—In this subpara-  
4 graph:

5 “(I) EDUCATION SUPPORT PRO-  
6 FESSIONAL.—The term ‘education  
7 support professional’ (who may also  
8 be known as ‘school support staff’)  
9 means an employee employed by an  
10 employer, as defined in paragraph (4),  
11 whose work takes place primarily  
12 within a public school or public insti-  
13 tution of higher education, which may  
14 include—

15 “(aa) paraeducators that  
16 provide instructional and non-in-  
17 structional support;

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

20 “(cc) custodians and mainte-  
21 nance service workers that pro-  
22 vide building and grounds main-  
23 tenance and repair;

24 “(dd) skilled trade workers  
25 that provide services in schools,

1 such as electricians, carpenters,  
2 and workers who operate machin-  
3 ery;

4 “(ee) workers who provide  
5 food service, including prepara-  
6 tion and serving of food;

7 “(ff) workers who provide  
8 school transportation and deliv-  
9 ery services;

10 “(gg) computer, audiovisual,  
11 and language technical support  
12 staff;

13 “(hh) security staff;

14 “(ii) nursing, health, and  
15 therapy support staff, who may  
16 also provide community, family,  
17 parent and welfare services; and

18 “(jj) other staff that may  
19 serve public education students.

20 “(II) EMPLOYER.—The term  
21 ‘employer’ includes a public school or  
22 public institution of higher education  
23 that meets the definition of employer  
24 in paragraph (4).

1                   “(III) PUBLIC SCHOOL.—The  
 2                   term ‘public school’ means a school  
 3                   that is maintained at public expense  
 4                   for the education of the children of a  
 5                   community or district and that con-  
 6                   stitutes a part of a system of free  
 7                   public education commonly including  
 8                   primary and secondary schools, in-  
 9                   cluding special education cooperatives,  
 10                  alternative schools, and other similar  
 11                  facilities.

12                   “(IV) PUBLIC INSTITUTION OF  
 13                   HIGHER EDUCATION.—The term ‘pub-  
 14                   lic institution of higher education’  
 15                   means an institution of higher edu-  
 16                   cation, as defined in section 101 of  
 17                   the Higher Education Act of 1965 (20  
 18                   U.S.C. 1001), that is funded, at least  
 19                   partly, by State taxpayers.”.

20 **SEC. 3. ENTITLEMENT TO LEAVE.**

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

24                   “(6) CALCULATION OF LEAVE FOR EDUCATION  
 25                   SUPPORT PROFESSIONALS.—The Secretary may pro-

1       vide a method for calculating the leave described in  
2       paragraph (1) with respect to employees described in  
3       section 101(2)(F).”.

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