

118TH CONGRESS  
1ST SESSION

# H. R. 770

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 HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2023

Mr. CASTEN (for himself, Mr. FITZPATRICK, Mr. ALLRED, Ms. BARRAGÁN, Ms. BONAMICI, Ms. BUSH, Mr. CARSON, Ms. CRAIG, Ms. CROCKETT, Ms. DEAN of Pennsylvania, Ms. DELAURO, Mr. DESAULNIER, Mr. FOSTER, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. GRIJALVA, Mrs. HAYES, Ms. NORTON, Ms. HOULAHAN, Mr. HUFFMAN, Mr. LYNCH, Mr. MCGOVERN, Mr. NADLER, Ms. PINGREE, Mr. POCAN, Ms. SALINAS, Ms. SÁNCHEZ, Ms. SLOTKIN, Mr. SMITH of Washington, Ms. TITUS, Mr. TRONE, Ms. VELÁZQUEZ, Ms. WILLIAMS of Georgia, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Oversight and Accountability, 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

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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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “ESP Family Leave  
3 Act”.

4 **SEC. 2. ELIGIBILITY FOR EDUCATION SUPPORT PROFES-**  
5 **SIONALS AND SCHOOL SUPPORT STAFF.**

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

9 “(F) EDUCATION SUPPORT PROFES-  
10 SIONALS AND SCHOOL SUPPORT STAFF.—

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

23 “(ii) FILE.—Each employer of an  
24 education support professional shall main-  
25 tain on file with the Secretary (in accord-  
26 ance with such regulations as the Sec-

1           retary may prescribe) information speci-  
2           fying the total monthly hours expected for  
3           the employee’s job description and duties  
4           for each school year.

5           “(iii) DEFINITIONS.—In this subpara-  
6           graph:

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

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

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

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

1           “(dd) skilled trade workers  
2 that provide services in schools,  
3 such as electricians, carpenters,  
4 and workers who operate machin-  
5 ery;

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

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

12           “(gg) computer, audiovisual,  
13 and language technical support  
14 staff;

15           “(hh) security staff;

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

20           “(jj) other staff that may  
21 serve public education students.

22           “(II) EMPLOYER.—The term  
23 ‘employer’ includes a public school or  
24 public institution of higher education

1 that meets the definition of employer  
2 in paragraph (4).

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

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

22 **SEC. 3. ENTITLEMENT TO LEAVE.**

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

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

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