

116TH CONGRESS  
2D SESSION

# H. R. 7710

To provide liability protection for elementary schools, secondary schools, and institutions of higher education during the COVID–19 public health emergency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2020

Mr. MURPHY of North Carolina (for himself, Mr. WEBER of Texas, Mr. TIFFANY, Mr. NORMAN, Mr. GROTHMAN, Mrs. WAGNER, Mr. WRIGHT, Mr. BYRNE, Mr. COMER, Mr. MOONEY of West Virginia, Mr. HARRIS, Mrs. LESKO, Mr. BISHOP of North Carolina, Mr. BABIN, and Mr. ABRAHAM) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide liability protection for elementary schools, secondary schools, and institutions of higher education during the COVID–19 public health emergency, 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 “Open Schools Respon-  
5 sibly Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In December 2019, a novel (new)  
4 coronavirus known as SARS-CoV-2 was first de-  
5 tected in Wuhan, Hubei Province, People's Republic  
6 of China, causing outbreaks of the coronavirus dis-  
7 ease COVID-19 that has now spread globally.

8 (2) Secretary Azar declared a Public Health  
9 Emergency under section 319 of the Public Health  
10 Service Act (42 U.S.C. 247d) for the United States  
11 for the transmission of the 2019 novel coronavirus,  
12 originating out of Wuhan, Hubei Province China, on  
13 January 31, 2020.

14 (3) President Donald J. Trump proclaimed, on  
15 March 13, 2020, that the COVID-19 outbreak in  
16 the United States constitutes a national emergency,  
17 beginning March 1, 2020.

18 (4) In order to catalyze and stabilize consistent  
19 growth in the economy, schools must be protected  
20 from liability of persons on campus (including stu-  
21 dents, employees, and visitors) who assume the risk  
22 of contracting the virus upon return to the 2020-  
23 2021 academic school year. There is a strong desire  
24 from Congress to make sure academic institutions  
25 re-open as swiftly and safely as possible, without  
26 threat of economic penalties from assumed risk.

1 **SEC. 3. LIMITATION ON LIABILITY FOR ELEMENTARY**  
2 **SCHOOLS, SECONDARY SCHOOLS, AND INSTI-**  
3 **TUTIONS OF HIGHER EDUCATION DURING**  
4 **THE COVID-19 PUBLIC HEALTH EMERGENCY.**

5 (a) **LIMITATION ON LIABILITY.**—Except as provided  
6 in subsection (b), an elementary school, secondary school,  
7 or institution of higher education shall not be liable under  
8 Federal or State law to a covered individual for any harm  
9 caused by an act or omission of the school or institution  
10 with respect to any harm arising from that individual’s  
11 exposure to, or infection by, the virus that causes COVID–  
12 19 during the public health emergency with respect to  
13 COVID–19 declared by the Secretary of Health and  
14 Human Services (referred to in this section as the “Sec-  
15 retary”) under section 319 of the Public Health Service  
16 Act (42 U.S.C. 247d) on January 31, 2020, if the school  
17 or institution was in compliance with applicable guidelines  
18 issued by the State and the Centers for Disease Control  
19 Prevention.

20 (b) **EXCEPTIONS.**—Subsection (a) does not apply if  
21 the harm was caused by an act or omission constituting  
22 willful or criminal misconduct, gross negligence, reckless  
23 misconduct, or a conscious flagrant indifference to the  
24 rights or safety of the covered individual harmed by the  
25 school or institution.

1 (c) PREEMPTION.—This section preempts the laws of  
2 a State or any political subdivision of a State to the extent  
3 that such laws are inconsistent with this section, unless  
4 such laws provide greater protection from liability.

5 (d) EFFECTIVE DATE.—This section shall take effect  
6 as if enacted on January 31, 2020, and applies with re-  
7 spect to a claim for harm if the act or omission that  
8 caused such harm occurred on or after such date.

9 (e) SUNSET.—This section shall sunset on January  
10 31, 2025.

11 (f) DEFINITIONS.—In this Act:

12 (1) The terms “elementary school” and “sec-  
13 ondary school” have the meanings given such terms  
14 in section 8101 of the Elementary and Secondary  
15 Education Act of 1965 (20 U.S.C. 7801).

16 (2) The term “institution of higher education”  
17 has the meaning given such term in section 102 of  
18 the Higher Education Act of 1965 (20 U.S.C.  
19 1002).

20 (3) The term “covered individual” means, with  
21 respect to an elementary school, secondary school, or  
22 institution of higher education—

23 (A) a student at the school or institution;

24 (B) an individual who is employed at the  
25 school or institution; or

1 (C) a visitor at the school or institution.

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