



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority  
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## LEGAL UPDATE

October 22, 2019

**To: Superintendents, Member School Districts (K-12)**

**From: Kaitlyn Schwendeman, Schools Legal Counsel** *KAS*

**Subject: SB 328 – Middle and High School Start Times**  
**Memo No. 37-2019**

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On October 13, 2019, Governor Newsom signed Senate Bill (“SB”) 328 into law. SB 328 prohibits middle schools from starting before 8:00 a.m., and high schools from starting prior to 8:30 a.m.

SB 328 must be implemented by districts no later than July 1, 2022, or when the school’s collective bargaining agreement expires, *whichever is later*. The law also allows schools to offer programs prior to the start of the school day, so long as that program does not generate average daily attendance for the purposes of computing any apportionments of state funding.

The law applies to middle and high schools operated by public and charter schools. However, it explicitly states that it shall not apply to “rural school districts.” A rural school district is not defined within the statute. While our office has provided guidance on what *may* be considered a rural school district, to confirm whether, a district should contact CDE prior to July 1, 2022.

Although the Committee analysis indicates that the Legislature considered the “federal definition” of rural school district, there is no general federal definition of rural school district. Our office believes that if a district is eligible under the Rural Education Achievement Program (“REAP”), administered by the Department of Education under Title VI, it is likely to meet the intentions of the Legislature as a “rural school district.” To be eligible under REAP, the district must meet either of the following definitions:



Definition 1:

Column A	Column B
The total number of students in average daily attendance at all of the schools served by the district is fewer than 600; <i>or</i>	All of the schools served by the district are designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education; <i>or</i>
Each county in which a school served by the district is located has a total population density of fewer than 10 people per square mile.	The district is located in an area determined to be “rural” by a governmental agency of the State.

*(Must match one characteristic from Column A and one from Column B.)*

Definition 2:

Twenty percent or more of the children ages 5 through 17 years served by the district are from families with incomes below poverty; <i>and</i>
All of the schools served by the district are designated with a school locale code of 32, 33, 41, 42, or 43.

*(Must match both characteristics.)*

For your convenience, a copy of SB 328 is included with this Legal Update.

Please contact our office with questions regarding this Legal Update or any other matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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## Senate Bill No. 328

### CHAPTER 868

An act to add Section 46148 to the Education Code, relating to pupil attendance.

[Approved by Governor October 13, 2019. Filed with Secretary of State October 13, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 328, Portantino. Pupil attendance: school start time.

Existing law requires the governing board of each school district to fix the length of the schoolday for the several grades and classes of the schools maintained by the school district in accordance with specified provisions of law.

This bill would require the schoolday for middle schools and high schools, including those operated as charter schools, to begin no earlier than 8:00 a.m. and 8:30 a.m., respectively, by July 1, 2022, or the date on which a school district's or charter school's respective collective bargaining agreement that is operative on January 1, 2020, expires, whichever is later, except for rural school districts. To the extent the bill imposes new duties on school districts and charter schools, the bill would impose a state-mandated local program. The bill would encourage the State Department of Education to post specified information on its internet website, including research on the impact of sleep deprivation on adolescents and the benefits of a later school start time, and to advise school districts and charter schools of this posting.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 46148 is added to the Education Code, to read:

46148. (a) (1) The schoolday for high schools, including high schools operated as charter schools, shall begin no earlier than 8:30 a.m.

(2) The schoolday for middle schools, including middle schools operated as charter schools, shall begin no earlier than 8:00 a.m.

(b) For purposes of this section, “school day” has the same meaning as defined by the school district or charter school for purposes of calculating average daily attendance in order to compute any apportionments of state funding. This section does not prohibit a school district or charter school from offering classes or activities to a limited number of pupils before the start of the school day that do not generate average daily attendance for purposes of computing any apportionments of state funding.

(c) This section shall be implemented by middle schools and high schools no later than July 1, 2022, or the date on which a school district’s or charter school’s respective collective bargaining agreement that is operative on January 1, 2020, expires, whichever is later.

(d) This section shall not apply to rural school districts.

(e) The department is encouraged to post on its internet website available research on the impact of sleep deprivation on adolescents and the benefits of a later school start time and examples of successful strategies for managing the change to a later school start time, and to advise school districts and charter schools of this posting.

(f) The Legislature encourages school districts, charter schools, and community organizations to inform their communities, including parents, teenagers, educators, athletic coaches, and other stakeholders, about the health, safety, and academic impact of sleep deprivation on middle and high school pupils and the benefits of a later school start time, and to discuss local strategies to successfully implement the later school start time.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.