



PERB
California Public Employment
Relations Board

Appeals Office
1031 18th Street, Suite 210
Sacramento, CA, 95811-4124
Telephone: (916) 322-8231



PERB Decision No. HO-U-1887

October 14, 2026

Re: *California School Employees Association-Chapter 451 v. Adelanto Elementary School District*
Case No. LA-CE-7023-E

Dear Parties:

No exceptions have been filed in the above-referenced matter pursuant to California Code of Regulations, title 8, section 32300. As provided in section 32305, the proposed decision of the Board agent is **HEREBY DECLARED FINAL**, effective October 14, 2026.

This decision is binding on the parties to this case. However, since the decision was not expressly adopted by the Board itself, it may not be cited in other cases as precedent.

Public Employment Relations Board

By

Rachel Morgan

Rachel Morgan
Board Assistant



**STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD**

CALIFORNIA SCHOOL EMPLOYEES
ASSOCIATION-CHAPTER 451,

Charging Party,

v.

ADELANTO ELEMENTARY SCHOOL
DISTRICT,

Respondent.

UNFAIR PRACTICE
CASE NO. LA-CE-7023-E

PROPOSED DECISION
(September 2, 2026)

**PERB Decision No. HO-U-1887
October 14, 2026**

Appearances: Jason Ter Keurst, Senior Labor Relations Representative, for California School Employees Association; Atkinson, Andelson, Loya, Ruud & Romo, by Brooke E. Jimenez, Attorney, for Adelanto Elementary School District.

Before Camille K. Binon, Administrative Law Judge.

INTRODUCTION

Charging Party California School Employees Association-Chapter 451 (CSEA) alleges that the Adelanto Elementary School District (District) violated the Educational Employment Relations Act (EERA)¹ when it: (1) contracted out bargaining unit work; and (2) failed to provide requested information. The District denies any wrongdoing.

PROCEDURAL HISTORY

On July 14, 2025, CSEA filed an unfair practice charge with the Public Employment Relations Board (PERB) against the District. On September 29, 2025,

¹ EERA is codified at Government Code section 3540 et seq. All statutory references are to the Government Code, unless otherwise specified. Public Employment Relations Board (PERB) Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

PERB's Office of General Counsel issued a complaint alleging that the District:

(1) contracted out Paraprofessional II's work; and (2) failed to provide requested information related to the contracting out.

On October 17, 2025, the District filed its answer to the complaint, admitting some allegations and denying others, denying any violation of EERA, and asserting multiple affirmative defenses.

On December 5, 2025, an informal settlement conference was held, but the matter was not resolved.

A prehearing videoconference was held on February 10, 2026, for the Administrative Law Judge and the parties to discuss the mechanics of conducting a formal hearing by videoconference and to agree upon a deadline for mutually exchanging exhibits prior to hearing.

A formal hearing was held on March 16, 17, 18, 19, and 20, 2026. Post-hearing briefs were submitted on May 29, 2026, and the District submitted a reply brief on June 18, 2026. At that point, the matter was deemed submitted for proposed decision.

FINDINGS OF FACT

Jurisdiction and Background

CSEA is an employee organization within the meaning of EERA section 3540.1, subdivision (d). The District is a public school employer within the meaning of EERA section 3540.1, subdivision (k).

The District and CSEA were parties to a collective bargaining agreement (CBA) effective from July 1, 2022, through June 30, 2025. Per Article 3, section 3.1, the District is limited to: "Contract out work except as provided by law, and prior to taking

such action, give the [CSEA] (15 calendar days) written notice thereof. In addition, the District retains the right to hire, classify, assign, evaluate, promote, terminate and discipline employees.”

Paraprofessional II Job Description and Duties

The District employs Paraprofessionals under the classification

Paraprofessional II. The job description provides the following essential functions:

- “• Assists with instruction to individual students or small groups of students in the Specialized Academic Instruction. (E)
 - “• Uses instructional materials to reinforce learning skills or to present new academic concepts and physical skills. (E)
 - “• Assists students with daily assignments, remedial or makeup work. (E)
 - “• Monitors, observes and assists in classroom discipline, playground supervision, other locations on the site and behavior management. (E)
- [¶ . . . ¶]
- “• Reports unusual student behavior or special needs to the teacher or site administrator. (E)”

Paraprofessionals assist individual students or small groups with instruction, assignments, academics, supervision, redirection, student care, and behavioral issues. The position requires a high school diploma or equivalent, K–8 student experience, and completion of No Child Left Behind (NCLB) and other state and federal requirements; special education experience is desirable.

The job description does not include and job duties or required trainings/ certifications concerning Applied Behavior Analysis (ABA), data collection, or the development or implementation of behavioral support plans.

Contracting with Sunburst/Amergis for Behavior Technicians

The District has utilized an outside contractor for Behavior Technician² services, most recently from Sunburst/Amergis (hereinafter Sunburst). On February 25, 2025, the District made a resolution to the School Board for approval to “Contract with all Educational Related Staffing Services.” The District never provided CSEA with any written notice of the District contracting out work prior to the District Board.

The District has never had a Behavior Technician position within the District, and the District does not have this classification or job description. After a student that is exhibiting behavior issues meets with the school psychologist who performs an assessment. Behavior Technicians are assigned only when necessary and appropriate under a student’s Individualized Education Program (IEP). When a student continues to exhibit violent, self-harming, eloping, or other severe behaviors despite teacher and paraprofessional interventions, the student may be referred for a psychological assessment. If the assessment supports higher-level behavioral services, the IEP team—consisting of the parents, educators, special education

² The position of Behavior Technician was often referred to in the record as “Behavior Therapist,” “Applied Behavior Analyst,” “ABA,” “Behavior Aide,” “1:1 Behavior Aide,” and “Behavior Para.” Hereinafter, it will be referred to as “Behavior Technician.”

providers, psychologist, and administration—determines whether a Behavior Technician is necessary.

If included in the IEP, Behavior Technician services become legally binding on the District and remain in place until reassessment determines they are no longer necessary or that a higher level of support is required. The District gained several students from different Districts that had IEPs with Behavior Technician requirements. The District is required to provide the support in an IEP from another district. Desert Mountain Specialized Education Local Plan Area (SELPA) had a shortage of Behavior Technicians and the District contracted with Sunburst to provide contracted workers directly from February 25, 2025, through June 30, 2025. This streamlined the process to place the Behavior Technician at the school site. Sunburst recruits, trains and employs the Behavior Technicians, including supervision of the personnel. Board Certified Behavior Analysts (BCBAs) from Sunburst are the supervisors of Behavior Technicians that work at the District. Behavior Technicians cost the District \$52.00 per hour according to the contract. There is no evidence in the record as to what Paraprofessional II employees are paid per hour.

Dr. Amber Best, the Director of Special Education responsible for contracting these services, testified that she had never reviewed the contractors' job description or spoken with a contracted employee about their qualifications. Dr. Best also testified that prior to the District signing the contract with Sunburst directly, the Behavior Technicians would be sent from SELPA who has existing contractual relationships with specialized student behavioral services providers. The SELPA contains 21 smaller school districts and provides contracted employees to districts for specialized

positions to support those districts. When districts do not have their own SELPA, the funding is provided to the SELPA for general education or special education support, including counseling, preschool services, etc., services the school district cannot provide. Dr. Best also testified that Behavior Technicians have been contracted at the District since at least 2014 when she started as a Speech Therapist. Dr. Best could not estimate the number of Behavior Technicians assigned to the District in 2025. She also did not provide testimony as to how many Behavior Technicians the SELPA provided in previous school years.

A former Paraprofessional II testified that contracted Behavior Technicians perform substantially similar duties to Paraprofessional IIs, in particular addressing behavior in students. She also testified that she never knew the Behavior Technicians were from the SELPA but knew they were from Sunburst. Kim Avigliano, a Paraprofessional II, testified that Paraprofessional II's routinely redirect students, escort disruptive students from classrooms, intervene during aggressive student incidents, maintain classroom safety and perform behavioral management duties. Paraprofessional IIs are assigned to a classroom and not a particular student.

There was evidence that two contracted Paraprofessionals were assigned to a school site in March of 2025. Dr. Best was informed of this assignment and immediately released these individuals from their assignment indicating that “[m]oving forward[,] the individuals from the agency would know what student or classroom they would be assigned to [support].” She testified that this was a mistake.

Behavior Technician Duties

Behavior Technicians provide specialized behavioral services to students with significant behavioral, developmental, and learning needs, including aggression, elopement, communication and social-emotional challenges, Attention-Deficit Hyperactivity Disorder (ADHD), autism, and other disabilities. Their goal is to improve behavior and self-sufficiency and reduce the need for restrictive environments.

Behavior Technicians are trained in Applied Behavior Analysis (ABA), including identifying behavioral precursors, patterns, and the four functions of behavior—escape/avoidance, attention, access to preferred items or activities, and automatic or sensory reinforcement. They use these skills to prevent escalation and implement behavioral interventions.

They are also trained in Antecedent-Behavior-Consequence (ABC) data collection, documenting what occurs before, during, and after a behavior. This frequent, detailed data collection helps identify patterns and guide interventions and is typically reported to and reviewed with a supervising BCBA.

Behavior Technicians generally have a bachelor's degree, often in child development, psychology, or education, and complete 40 hours of ABA training, supervised shadowing, and training in Crisis Prevention Intervention (CPI), first aid, and CPR.³

³ CPR was not defined in the record, but it seemingly refers to cardiopulmonary resuscitation.

CSEA's Cease and Desist Letter and Information Request

On May 1, 2025, CSEA sent the District a letter demanding the District cease and desist from contracting out Paraprofessional work normally and/or routinely performed by CSEA classified bargaining unit employees. In this letter, CSEA informed the District that it only learned of this contracting out issue on or about April 23, 2025, when CSEA bargaining unit members informed CSEA that the District was assigning these contracted Behavior Technicians to work in the same classrooms as CSEA bargaining unit members, doing the same duties as CSEA bargaining unit members. In the letter, CSEA also reminded the District of the requirement for the District to notify CSEA and negotiate prior to making changes to mandatory subjects of bargaining. CSEA also requested that the District provide documentation to show that each and every one of the steps required by Education Code § 45103.1, subdivision (a)⁴ were followed, and the documentation that shows the requirements for each step of the Education Code § 45103.1, subdivision (a) were met.

⁴ Education Code section 45103.1, subdivision (a) provides:

“(a) Notwithstanding any other provision of this chapter, personal services contracting for all services currently or customarily performed by classified school employees to achieve cost savings is permissible, unless otherwise prohibited, when all the following conditions are met:

“(1) The governing board or contracting agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the school district, provided that:

“(A) In comparing costs, there shall be included the school district's additional cost of providing the same

The District responded to CSEA's letter on May 2, 2025, via an email sent by Craig Shiflett, the Assistant Superintendent of Human Resources:

"This message is in response to concerns raised regarding the District's contract with [Sunburst].

"The District would like to clarify that the contracted support staff are being utilized solely to meet mandated IEP service requirements for students with disabilities. These services, often behavioral in nature, are typically fulfilled through the SELPA. However, due to a shortage of SELPA-assigned personnel, the District has had to access additional support through [Sunburst] in order to remain compliant with [Individuals with Disabilities Act (IDEA)] and provide a Free Appropriate Public Education (FAPE) under federal and state law.

"These individuals are not performing work that falls within the scope of the classified bargaining unit, nor are they replacing any existing CSEA positions. Instead, they are providing specialized IEP-related services such as behavioral support, which are not included in the current classified job descriptions. Importantly, the District does not have an established Behavioral Therapist (BT) position within its staffing structure.

"This use of contracted staff was formally approved by the Adelanto Elementary School District Board of Trustees, and it is directly connected to the District's legal obligation to implement IEPs and avoid due process claims or compliance complaints. In fact, not providing these supports could result in violations under 34 CFR §§ 300.320-300.324, California Ed. Code § 56345, and 5 CCR

service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function."

§ 3030, as well as exposure to compensatory education claims.

“Labor Law Compliance

“We understand and respect the protections afforded under the California Education Code § 45103 and Government Code § 3543.5, which prevent public school employers from contracting out services that belong to the classified service without bargaining with the union. However, the District’s current use of this contracted support does not constitute a violation of these laws because:

“• The District is not contracting out existing bargaining unit work.

“• There is no current classified position that encompasses the specialized behavioral duties being performed.

“• The services are *narrowly* defined and aligned with the individualized needs outlined in students’ IEPs, which must be fulfilled without delay.”

“We appreciate CSEA’s advocacy and are committed to ongoing transparency. If the need for long-term behavioral support persists, the District is open to engaging in dialogue about the possibility of creating a formal position aligned with these responsibilities and discussing placement within the bargaining unit at that time.”

(Emphasis added.)

On May 14, 2025, CSEA sent the District a second cease and desist letter and request for necessary and relevant information. CSEA reiterated its demand that the District cease and desist contracting out work normally and/or routinely performed by CSEA classified bargaining unit employees. CSEA explained why it disagreed with the assertions made by the District in the May 2, 2025 email response and provided

detailed examples of why CSEA believed the District was incorrect. CSEA also reiterated its request and again requested that the District provide documentation to show it that it followed each and every one of the steps required by California Education Code § 45103.1, subdivision (a). CSEA stated that if the District had any questions regarding the letter or the information that CSEA requested the District could contact Senior Labor Relations Representative Jason Ter Keurst and provided a phone number and email for Ter Keurst. The District never responded to this letter and never provided the requested information.

Extended School Year

Before June 6, 2025, Paraprofessional II employees would volunteer to work in summer school classrooms and the Extended School Year (ESY) program. Because some students required Behavior Technician services, the District also used Behavior Technicians from Sunburst during summer 2025. Approximately 23 Paraprofessional IIs worked during summer school and ESY, with positions offered by seniority and employees having the right to decline. Ten Behavior Technicians were assigned during the summer of 2025.

Oscar Arias, the only contracted Behavior Technician to testify, stated that during summer 2025 he did not work with the same student he supported during the regular school year. Instead, he was assigned to support the classroom generally rather than a specific student. Arias testified that his duties included arts and crafts with students and that he neither met with nor saw a BCBA during ESY or summer school.

ISSUES

1. Did the District fail to bargain in good faith by unilaterally contracting out Paraprofessional II work when it contracted with Sunburst for Behavior Technicians on February 25, 2025?
2. Did the District fail to bargain in good faith by unilaterally contracting out Paraprofessional II work during ESY?
3. Did the District fail to bargain in good faith by failing to provide information in response to CSEA's May 1 and May 14, 2025 requests?

CONCLUSIONS OF LAW

I. Unilateral Change

To establish a prima facie case that a respondent employer violated its bargaining obligation, an exclusive representative must prove: (1) the employer changed or deviated from the status quo; (2) the change or deviation concerned a matter within the scope of representation; (3) the change or deviation had a generalized effect or continuing impact on represented employees' terms or conditions of employment; and (4) the employer reached its decision without first providing adequate advance notice of the proposed change to the employees' union and bargaining in good faith over the decision, at the union's request, until the parties reached an agreement or a lawful impasse. (*Bellflower Unified School District* (2021) PERB Decision No. 2796, p. 9.) Absent a valid defense, an employer's unilateral change affecting negotiable matters is a per se refusal to meet and confer. (*Regents of the University of California (Los Angeles)* (2025) PERB Decision No. 2942-H, pp. 8-9.)

There are two different allegations of unilateral change: (1) contracting with Sunburst on February 25, 2025 for the school year; and (2) contracting out during the summer of 2025. Each will be analyzed in turn.

A. Contract with Sunburst During the School Year

1. Change in or Deviation from the Status Quo

There are three primary means of showing that a party changed or deviated from the status quo. (*Oxnard Union High School District* (2022) PERB Decision No. 2803, p. 31.) Specifically, a charging party satisfies this element by showing any of the following: (1) deviation from a written agreement or written policy; (2) a change in established past practice; or (3) a newly created policy or application or enforcement of existing policy in a new way. (*Ibid.*)

The District began contracting directly with Sunburst in February 2025. This was a change because previously the Behavior Technicians were provided through the SELPA. Therefore, CSEA established a change.

2. Scope of Representation

EERA defines the scope of representation as extending to “matters relating to wages, hours of employment, and other terms and conditions of employment.” (EERA, § 3543.2, subd. (a)(1).) In *Anaheim Union High School District* (1981) PERB Decision No. 177 (*Anaheim*), the Board outlined the general test for assessing whether an unenumerated topic falls within EERA’s scope of representation: (1) it is logically and reasonably related to wages, hours, or other statutorily enumerated subjects of bargaining; (2) it is of such concern to management and employees that conflict is likely to occur, and the mediatory influence of collective bargaining is an appropriate

means for resolving such conflict; and (3) its designation as a negotiable subject would not significantly abridge the employer's freedom to exercise those managerial prerogatives (including matters of fundamental policy) that are essential to achieving its mission. (*The Accelerated Schools* (2023) PERB Decision No. 2855, p. 14, fn. 9.) However, PERB need not evaluate whether the *Anaheim* test is satisfied here because for "recurring topics," PERB "follows subject-specific standards that implement the overall scope of representation test" set out in *Anaheim*, thereby "obviating the need to 'reinvent the wheel.'" (*The Accelerated Schools, supra*, PERB Decision No. 2855, p. 15.) There are three theories to find a particular subcontracting decision is bargainable: (1) a material portion of the employer's concerns underlying their subcontracting decision were amendable to bargaining; (2) the employer decided to use subcontracted employees to perform substantially the same types of job duties that bargaining unit employees perform; or (3) the employer unilaterally altered the status quo by adopting a new interpretation of the parties' CBA. (*County of Kern and Kern County Hospital Authority* (2019) PERB Decision No. 2659-M, pp. 12-23 (*Kern*).) CSEA only needs to establish one viable theory to find the decision bargainable. (*Id.* at p. 12.)

i. Employer's Concerns Amenable to Bargaining

Where the decision to contract out is motivated by factors other than labor costs, PERB generally finds the decision is not negotiable. (*City of Glendale* (2020) PERB Decision No. 2694-M, p. 47 (*Glendale*); *Kern, supra*, PERB Decision No. 2659-M, p. 13.)

The District does not employ Behavior Technicians and has been contracting out their services since at least 2014. The undisputed evidence shows that, from February 25 to June 30, 2025, the District contracted directly with Sunburst to fill the shortage of Behavior Technicians through the SELPA and to address an increase in IEPs requiring Behavior Technicians from other school districts. There is no evidence in the record that the District employed Behavior Technicians in order to save on labor costs because Paraprofessional IIs could not perform the one-on-one support provided by Behavior Technicians during the school year. The decision to contract directly with Sunburst was made to fill the need of students with IEPs and not to save on labor costs. Therefore, the decision to contract directly with Sunburst was not motivated by labor costs.

ii. Substantially the Same Types of Job Duties

“‘[W]here the employer simply replaces its employees with those of a contractor to perform the same services under similar circumstances,’ then there is no need to engage in any balancing to determine whether the benefits of bargaining outweigh the costs.” (*Glendale, supra*, PERB Decision No. 2694-M, p. 48, citing *Lucia Mar Unified School District* (2001) PERB Decision No. 1440, adopting proposed decision at p. 39.)

The District does not employ Behavior Technicians and must obtain these specialized services from outside providers. This arrangement is necessary because the need for Behavior Technician services is highly individualized and unpredictable. Students may require these services temporarily, may no longer require them following reassessment, or the student may leave the District. Contracting allows the

District to provide specialized services when, and only when, they are required by individual students' IEP needs.

More importantly, Behavior Technicians perform specialized behavioral functions that are required by students' IEP and are fundamentally different from the instructional and support duties of Paraprofessional IIs. While Paraprofessional IIs do perform some behavioral support duties, Behavior Technicians work with students exhibiting significant behaviors, including physical aggression, self-harm or harm to others, repeated elopement, severe communication or social-emotional challenges, autism, ADHD, and other disabilities. Their objective is not merely to support instruction, but to identify and modify behavior so students can increase their independence and participate successfully in less restrictive educational environments.

Behavior Technicians are specifically trained in ABA, including identifying ABC patterns, understanding the functions of behavior, and implementing interventions designed to prevent escalation. They are also trained in ABC data collection, which documents what occurs before, during, and after a behavior. This detailed data is used to identify patterns, guide interventions, and measure behavioral progress. Behavior Technicians work under the supervision of BCBAs and report behavioral data to them. They generally possess a bachelor's degree, specialized ABA training, supervised field experience, and training in CPI, first aid, and CPR.

Paraprofessional IIs, by contrast, are instructional support employees. Their primary responsibility is to assist teachers with instruction, including working with individual students or small groups, assisting with assignments and academics,

providing supervision and redirection, and assisting with student care. Their job description references behavioral responsibilities only in the context of reporting unusual behavior and assisting with classroom discipline, supervision, and behavior management.

The distinction is also reflected in the qualifications for each position. A Paraprofessional II is only required to have a high school diploma or equivalent, K-8 student experience, completion of NCLB and other applicable state and federal requirements, and special-needs experience is desirable. The position requires no ABA training or certification and does not require training in ABC data collection, behavioral assessment, or the development or implementation of intensive behavioral interventions.

Thus, the two positions are not interchangeable. Behavior Technicians provide specialized behavioral services requiring distinct education, training, expertise, and supervision, while Paraprofessional IIs provide instructional and general student support. The fact that students may receive services from both a Paraprofessional II and a Behavior Technician at the same time demonstrates that the positions serve complementary but distinct functions. The mere fact that both positions work with students, including some behavioral support, does not transform the specialized work of Behavior Technicians into CSEA bargaining-unit work. The Behavior Technicians performs distinct one-on-one support to a student pursuant to their IEP and Paraprofessional IIs perform more general classroom support. Therefore, they are not performing substantially similar job duties.⁵

⁵ There was one instance when contracted Paraprofessionals were assigned to

iii. Altered the Status Quo in CBA

Resolving whether contracting out Paraprofessional II work evidenced a change in policy by deviating from the parties' CBA requires an interpretation of the CBA. Although PERB does not resolve contract disputes, PERB may interpret contractual provisions as necessary to resolve unfair practice allegations. (*County of San Joaquin* (2021) PERB Decision No. 2775-M, pp. 39-40; *Modoc County Office of Education* (2019) PERB Decision No. 2684, p. 15.) In *Lodi Unified School District* (2020) PERB Decision No. 2723 (*Lodi*), the Board held that the traditional rules of contract law guide interpretation of a collective bargaining agreement between a public employer and a recognized employee organization. (*Id.* at p. 12.) “A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.” (*Ibid.*) “[T]he whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other.” (*Ibid.*) Thus, the Board in *Lodi* held that we “must avoid interpreting contract language in a way which leaves a provision without effect.” (*Ibid.*, citing *State of California (Department of Corrections)* (1999) PERB Decision No. 1317-S, p. 9.) Additionally, the Board has held that “[w]here contractual language is clear and unambiguous, it is unnecessary to go beyond the plain language of the contract itself to ascertain its meaning.” (*Lodi, supra*,

a school site, but this was done without the knowledge of the District and they were released immediately. This would not establish a change because it is more akin to “a one-time mistake that is unlikely to recur.” (*Bellflower Unified School District, supra*, PERB Decision No. 2796, p. 18.)

PERB Decision No. 2723, p. 12, citing Civ. Code, § 1638; *Marysville Joint Unified School District* (1983) PERB Decision No. 314, p. 9.)

Where contract terms are ambiguous, (i.e., reasonably susceptible of more than one meaning), PERB may look to bargaining history and past practice to discern the parties' intent. (*State of California (Department of Forestry and Fire Protection)* (2018) PERB Decision No. 2546-S, pp. 9-10.) "A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful." (Civ. Code, § 1636.) "[T]he whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other." (Civ. Code, § 1641.)

The CBA permits the District to "[c]ontract out work as provided by law," provided that CSEA receives 15 calendar days' written notice before the District takes such action. The District did not provide CSEA with the required 15-day notice before contracting with Sunburst. The threshold issue, however, is whether the services performed by Behavior Technicians constitute CSEA bargaining-unit "work." They do not, as discussed, *ante*.

CSEA failed to establish that the District's decision to contract with Sunburst during the school year was within the scope of representation. Therefore, CSEA failed to establish a prima facie case of unilateral change of subcontracting during the 2025 school year and this allegation is DISMISSED.

B. Extended School Year

1. Change in Policy

There was testimony that at least one Behavior Technician, Arias, was assigned to ESY performing duties of a Paraprofessional II, namely, arts and crafts with students. Also, he was assigned to support the classroom generally rather than a specific student and neither met with nor saw a BCBA during ESY for summer school. The work performed was more akin to Paraprofessional II work than Behavioral Technician work. This was in stark contrast to the work Behavior Technicians were performing during the spring of the 2025 school year. In particular, Behavior Technicians were assigned to a particular student pursuant to an IEP, gathering data of behaviors, performing interventions, and reporting this to the BCBA. During the summer of 2025, at least Arias was assigned to support a classroom and did not report to a BCBA. Therefore, this assignment was performing bargaining unit work and therefore, a change in policy.

2. Scope of Representation

Unlike the use of Behavior Technicians at the District during the school year where Behavior Technicians were placed with individual students one-on-one according to their IEP, at least one Behavior Technician, Arias, testified that he was not assigned to a student for one-on-one behavior support pursuant to an IEP but rather was assigned to a classroom performing art and crafts. This assignment during the summer of 2025, was more akin to the District “simply replac[ing] its employees with those of a contractor to perform the same services under similar circumstances.” (*Glendale, supra*, PERB Decision No. 2694-M, p. 48.) Therefore, the summer

assignment of Behavior Technicians that replaced Paraprofessional II work in classrooms was within the scope of representation.

3. Generalized Effect or Continuing Impact

A change of policy has a “generalized effect or continuing impact” if it either “changes a policy or employment term applicable to future situations,” or the employer’s unilateral action is “based upon an incorrect legal interpretation or insistence on a non-existent legal right that could be relevant to future disputes.”

(*Bellflower Unified School District, supra*, PERB Decision No. 2796, p. 15.) The District asserts it utilized Behavior Technicians from Sunburst during the summer of 2025 but claims that they performed different functions and did not displace Paraprofessionals. This is false. Arias testified to the opposite. The District also alluded to its right to use Behavior Technicians in its response to CSEA’s May 1 Cease and Desist letter, stating “[t]he District is not contracting out existing bargaining unit work.” Therefore, the District appears to claim that it will continue to use Behavior Technicians in the same capacity in future summer programs. The insistence on a non-existent legal right to continue this practice has a generalized effect or continuing impact.

4. Adequate Notice and Opportunity to Bargain

When the exclusive representative first learns of a change after the decision has been made, “by definition, there has been inadequate notice.” (*City of Sacramento* (2013) PERB Decision No. 2351-M, p. 33.) Notice is inadequate when a union first learns of a decision or change as a *fait accompli*. (*County of Merced* (2020) PERB Decision No. 2740-M, p. 20.) An employer’s unexcused failure to provide an exclusive representative with adequate notice and an opportunity to bargain is a *per se* violation

of the duty to bargain in good faith if the decision itself falls within the scope of representation, or if the decision has reasonably foreseeable effects on terms or conditions of employment. (*The Accelerated Schools, supra*, PERB Decision No. 2855, p. 13, citing *Regents of the University of California* (2021) PERB Decision No. 2783-H, p. 18; *Trustees of the California State University* (2012) PERB Decision No. 2287-H, p. 20.)

Because the District's unilateral change was a fait accompli by the time CSEA learned of it, the union had no duty to demand bargaining over Behavior Technicians performing Paraprofessional work during the summer of 2025. (*Regents of the University of California (Los Angeles), supra*, PERB Decision No. 2942-H, p. 15, citing *County of Merced, supra*, PERB Decision No. 2740-M, p. 20.) Therefore, the District failed to provide adequate notice.

Therefore, CSEA established that the District unilaterally contracted out bargaining unit work during the summer of 2025, in violation of EERA section 3543.5, subdivisions (a), (b), and (c). This conduct also interfered with the rights of bargaining unit employees to be represented by CSEA and with CSEA's right to represent its bargaining unit employees.

II. Failure to Provide Information

An exclusive representative is presumptively entitled to information that is necessary and relevant in discharging its representational duties or exercising its right to represent bargaining unit employees regarding terms and conditions of employment within the scope of representation. (*Contra Costa Community College District* (2019) PERB Decision No. 2652, pp. 16-17; *Petaluma City Elementary School District/Joint*

Union High School District (2016) PERB Decision No. 2485, p. 17 (*Petaluma*).) In this context, the terms “necessary” and “relevant” do not have separate meanings.

(*Petaluma, supra*, PERB Decision No. 2485, p. 21.) PERB uses a liberal, discovery-type standard, like that used by the courts, to determine relevance. (*Id.* at p. 17.)

However, if a union requests information that does not relate to a mandatory subject of bargaining, then there is no presumption of relevance and the union must show why it needs the information. (*Sacramento City Unified School District* (2018) PERB Decision No. 2597, p. 9, fn. 6 (*Sacramento*); *Regents of the University of California (Davis)* (2010) PERB Decision No. 2101-H, p. 32.) To demonstrate a violation of the duty to provide information, a requesting party need not show that it suffered harm or prejudice. (*Sacramento, supra*, PERB Decision No. 2597, p. 9.)

A party responding to an information request must exercise the same diligence and thoroughness as it would in other business affairs of importance. (*Sacramento, supra*, PERB Decision No. 2597, pp. 8-9.) An unreasonable delay in providing information constitutes as much of a violation as an outright refusal. (*Petaluma, supra*, PERB Decision No. 2485, p. 20.) If one party to a labor-management relationship makes a claim to the other and is then asked for information to back up the claim, it must provide such information absent a valid defense. (*City of Davis* (2018) PERB Decision No. 2582-M, p. 19.)

Once a party receives a request for relevant information, it must either fully supply the information, or timely and adequately explain its reasons for not doing so. (*Sacramento, supra*, PERB Decision No. 2597, p. 8.) The responding party bears the burden of proof as to any defense, limitation, or condition that it asserts. (*Ibid.*)

The information here was plainly relevant to CSEA. An exclusive representative is presumptively entitled to information that is necessary and relevant in discharging its representational duties or exercising its right to represent bargaining unit employees regarding terms and conditions of employment within the scope of representation. (*Contra Costa Community College District*, *supra*, PERB Decision No. 2652, pp. 16-17; *Petaluma*, *supra*, PERB Decision No. 2485, p. 17.) CSEA was seeking information related to Education Code provisions directly referenced in the MOU that was relevant to CSEA's right to enforce the MOU.

In *Butte-Glenn Community College District* (2022) PERB Decision No. 2834 (*Butte-Glenn*), the Board clarified precedent regarding the parties' respective obligations regarding a partial request for information response. *Butte-Glenn* overruled case law that suggested that an exclusive representative's failure to reassert or clarify its information request upon receiving a partial response from the employer always bars finding a violation of the duty to bargain in good faith, and reaffirmed "that an exclusive representative need not reassert or clarify its information request upon receiving a partial response from the employer where it is sufficiently clear that the response did not fully satisfy the request." (*Id.* at pp. 13-14.)

CSEA requested that the District provide documentation to show that each and every one of the steps required by Education Code § 45103.1, subdivision (a) were followed, and the documentation that shows the requirements for each step of the Education Code § 45103.1, subdivision (a) were met. The District's response explained that "the contracted support staff are being utilized solely to meet mandated IEP service requirements for students with disabilities [and] [t]hese services, often

behavioral in nature, are typically fulfilled through the SELPA.” The District further explained that “due to a shortage of SELPA-assigned personnel, the District has had to access additional support through [Sunburst] in order to remain compliant with IDEA and [FAPE].” The District’s response also included that it was not violating the Education Code because: (1) “The District is not contracting out existing bargaining unit work”; (2) “There is no current classified position that encompasses the specialized behavioral duties being performed”; and (3) “The services are narrowly defined and aligned with the individualized needs outlined in students’ IEPs, which must be fulfilled without delay.” CSEA responded with a second Cease and Desist letter stating it disagreed with the District’s position and again requesting the District provide documentation. “When a union requests relevant information, the employer must either fully supply the information or timely and adequately explain its reasons for not doing so, and the employer bears the burden of proof as to any defense, limitation, or condition that it asserts.” (*Sacramento, supra*, PERB Decision No. 2597, p. 8.)

The District adequately responded to CSEA’s request. Education Code section 45103, subdivision (a), applies only to “personal services contracting for all services currently or customarily performed by classified school employees.” The District explained that the Behavior Technicians were not performing work within the scope of the classified bargaining unit, were not replacing existing CSEA positions, and instead were providing specialized one-on-one IEP-related behavioral support not included in the District’s current classified job descriptions. Thus, the District provided the information necessary to explain both why section 45103 did not apply and why it did not provide the additional documentation CSEA requested. Because, at the time, the

District was not contracting for services currently or customarily performed by classified employees, the requested statutory documentation was inapplicable. Therefore, this allegation is DISMISSED.

REMEDY

EERA confers on the Board broad remedial powers, including the authority to issue cease and desist orders and to require such affirmative action as the Board deems necessary to effectuate the policies and purposes of the Act. (EERA, § 3541.3, subd. (i); *Lodi, supra*, PERB Decision No. 2723, p. 20.) PERB's customary remedy for an employer's unlawful unilateral change includes directing that the charging party and affected employees be made whole. (*Lodi, supra*.) An order that may require the compliance officer to engage in some approximation is preferable to "permitting the employer to evade liability because of uncertainty caused by the employer's own unlawful conduct, and thus leaving an unfair practice unremedied." (*Id.* at p. 21, fn. 13, citing *City of Pasadena* (2014) PERB Order No. Ad-406-M, pp. 8, 13-14, & 26-27.)

For an unlawful unilateral change, PERB's remedy commonly includes a cease-and-desist order; restoration of the status quo; a bargaining order; make-whole relief, including back pay, benefits, and interest; and a notice posting order. (*Pittsburg Unified School District* (2022) PERB Decision No. 2833, p. 14; *Pasadena Area Community College District* (2015) PERB Decision No. 2444, pp. 23-24.)

The District will be ordered to cease and desist from engaging in the unlawful conduct found in this proposed decision and restore the status quo by making whole any bargaining unit employee that was replaced with a Behavior Technician during the summer of 2025, including back pay, benefits and interest. Such recovery shall also

include 7 percent annual interest compounded on a daily basis. (*El Centro Regional Medical Center* (2024) PERB Decision No. 2890-M, p. 25.)

Additionally, it is appropriate to order the District to post a notice to employees at all work locations where notices to employees in the Association's bargaining unit are customarily posted. In addition to physical postings, the District is ordered to post notice of this decision and remedial order by e-mail, intranet, websites, or other electronic means by which it communicates with employees. (*City of Sacramento, supra*, PERB Decision No. 2351-M.)

CSEA requests that the Superintendent read the order into the record of a regularly scheduled District Board of Education meeting. PERB orders spoken notice if customary notice methods, in combination with other remedies, are insufficient. (*Mt. San Jacinto Community College District* (2023) PERB Decision No. 2865, p. 42 (*Mt. San Jacinto*); *Regents of the University of California* (2021) PERB Decision No. 2755-H, p. 56.) However, CSEA has not established that customary notice mechanisms are insufficient here. (See *County of San Joaquin (Sheriff's Department)* (2018) PERB Decision No. 2619-M, p. 14, fn. 14; *Alliance College-Ready Public Schools et al.* (2017) PERB Decision No. 2545, pp. 17-18; cf. *Mt. San Jacinto, supra*, PERB Decision No. 2865, pp. 42-43 [spoken notice needed to "blunt the impact of the District's unlawful conduct, which may otherwise persist to some degree"].) Therefore, this request is denied.

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in the case, it is found that Adelanto Elementary School District violated the

Educational Employment Relations Act, Government Code section 3540 et seq. by unilaterally contracting out bargaining unit work during the summer of 2025. All other allegations are dismissed.

Pursuant to sections 3541.3, subdivisions (i) and (k) and 3541.5 of the Government Code, it hereby is ORDERED that the District, its governing board and its representatives shall:

A. CEASE AND DESIST FROM:

1. Unilaterally changing policies within the scope of representation without providing CSEA notice and an opportunity for bargaining.
2. Interfering with the rights of bargaining unit employees to be represented by CSEA; and
3. Denying CSEA its right to represent bargaining unit employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Make whole any bargaining unit employee that was replaced with a Behavior Technician during the summer of 2025, including back pay, benefits and interest at 7 percent annual interest compounded on a daily basis.
2. Within 10 workdays of the service of a final decision in this matter, post at all work locations where notices to employees are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the District, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. The Notice shall also be posted by electronic message, intranet, internet site, and other electronic means used

by the District to communicate with employees. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.⁶

3. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board (PERB or Board), or the General Counsel's designee. Respondent shall provide reports, in writing, as directed by the General Counsel or his/her designee. All reports regarding compliance with this Order shall be concurrently served on CSEA.

RIGHT OF APPEAL

A party may appeal this proposed decision by filing with the Board itself a statement of exceptions within 20 days after the proposed decision is served. (PERB Reg. 32300.) If a timely statement of exceptions is not filed, the proposed decision will become final. (PERB Reg. 32305, subd. (a).)

The statement of exceptions must be a single, integrated document that may be in the form of a brief and may contain tables of contents and authorities, but may not exceed 14,000 words, excluding tables of contents and authorities. Requests to exceed the 14,000-word limit must establish good cause for exceeding the limit and be

⁶ Either party may ask OGC to alter or extend the posting period, to require further notice methods, or to otherwise supplement or adjust this order to ensure adequate notice. Upon receipt of such a request, OGC shall solicit input from all parties and, if warranted, provide amended instructions to ensure adequate notice. (*City and County of San Francisco* (2023) PERB Decision No. 2858-M, p. 19, fn. 10; see also *City of Culver City* (2020) PERB Decision No. 2731-M, p. 29, fn. 13 [amended instructions may be justified when a majority of employees at one or more work locations are not physically reporting to their work location at the time physical posting would otherwise commence].)

filed with the Board itself and served on all parties no later than five days before the statement of exceptions is due. PERB Regulation 32300, subdivision (a), is specific as to what the statement of exceptions must contain. Non-compliance with the requirements of PERB Regulation 32300 will result in the Board not considering such filing, absent good cause. (PERB Reg. 32300, subd. (d).)

The text of PERB's regulations may be found at PERB's website:

www.perb.ca.gov/laws-and-regulations/.

A. Electronic Filing Requirements

Unless otherwise specified, electronic filings are mandatory when filing appeal documents with PERB. (PERB Reg. 32110, subd. (a).) Appeal documents may be electronically filed by registering with and uploading documents to the "ePERB Portal" that is found on PERB's website: <https://eperb-portal.ecourt.com/public-portal/>. To the extent possible, all documents that are electronically filed must be in a PDF format and text searchable. (PERB Reg. 32110, subd. (d).) A filing party must adhere to electronic service requirements described below.

B. Filing Requirements for Unrepresented Individuals

Individuals not represented by an attorney or union representative, are encouraged to electronically file their documents as specified above; however, such individuals may also submit their documents to PERB for filing via in-person delivery, US Mail, or other delivery service. (PERB Reg. 32110, subds. (a) and (b).) All paper documents are considered "filed" when the originals, including proof of service (see below), are actually received by PERB's Headquarters during a regular PERB

business day. (PERB Reg. 32135, subd. (a).) Documents may be double-sided, but must not be stapled or otherwise bound. (PERB Reg. 32135, subd. (b).)

The Board's mailing address and contact information is as follows:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street, Suite 200
Sacramento, CA 95811-4124
Telephone: (916) 322-8231

C. Service and Proof of Service

Concurrent service of documents on the other party and proof of service are required. (PERB Regs. 32300, subd. (a), 32140, subd. (c), and 32093.) A proof of service form is located on PERB's website: www.perb.ca.gov/about/forms/. Electronic service of documents through ePERB or e-mail is authorized only when the party being served has agreed to accept electronic service in this matter. (See PERB Regs. 32140, subd. (b), and 32093.)

D. Extension of Time

An extension of time to file a statement of exceptions can be requested only in some cases. (PERB Reg. 32305, subds. (b) and (c).) A request for an extension of time in which to file a statement of exceptions with the Board itself must be in writing and filed with the Board at least three calendar days before the expiration of the time required to file the statement of exceptions. The request must indicate good cause and, if known, the position of each of the other parties regarding the request. The request shall be accompanied by proof of service of the request upon each party. (PERB Reg. 32132.)



**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California**

After a hearing in Unfair Practice Case No. LA-CE-7023-E, *California School Employees Association-Chapter 451 v. Adelanto Elementary School District*, in which all parties had the right to participate, it has been found that the Adelanto Elementary School District (District) violated the Educational Employment Relations Act (EERA), Government Code section 3540 et seq. by unilaterally contracting out bargaining unit work during the summer of 2025.

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Unilaterally changing policies within the scope of representation without providing CSEA notice and an opportunity for bargaining.
2. Interfering with the rights of bargaining unit employees to be represented by CSEA; and
3. Denying CSEA its right to represent bargaining unit employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF EERA:

Make whole any bargaining unit employee that was replaced with a Behavior Technician during the summer of 2025, including back pay, benefits and interest at 7 percent annual interest compounded on a daily basis.

Dated: _____

ADELANTO ELEMENTARY SCHOOL
DISTRICT

By: _____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST 30 CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, Appeals Office, 1031 18th Street, Suite 210, Sacramento, CA, 95811-4124.

On October 14, 2026, I served the PERB Decision No. HO-U-1887 regarding *California School Employees Association-Chapter 451 v. Adelanto Elementary School District*, Case No. LA-CE-7023-E on the parties listed below by

☐ I am personally and readily familiar with the business practice of the Public Employment Relations Board for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Sacramento, California.

☐ Personal delivery.

☒ Electronic service (e-mail).

Jason Ter Keurst, Senior Labor Relations Representative
California School Employees Association
10211 Trademark St., Unit A
Rancho Cucamonga, CA 91730
Email: jterkeurst@csea.com

Brooke E. Jimenez, Attorney
Atkinson, Andelson, Loya, Ruud & Romo
3390 University Avenue, Suite 300
Riverside, CA 92501
Email: bjimenez@aalrr.com
Email: lmartin@aalrr.com

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 14, 2026, at Sacramento, California.

Rachel Morgan

(Type or print name)

Rachel Morgan

(Signature)