

Subjects of Bargaining

Mandatory Subjects - must be bargained upon demand by either party.

Non-Mandatory Subjects (Permissive) - parties may negotiate voluntarily; may be taken to impasse, but not to fact-finding.

Prohibited Subjects - may not be negotiated by either party.

EXAMPLES OF MANDATORY SUBJECTS

- Salaries and wages
- Paid leave, vacations, holidays, sick leave, etc.
- Service credits and longevity pay
- Insurance
- Employee services and benefits, i.e. company car or use of employer's tools
- Tuition reimbursement
- Hours - Number of hours, change in hours unless *de minimus*
- Length of teachers' workday - but note, the length and number of instructional periods for students relates to educational policy and is a management prerogative, but because these changes affect teachers' workload, the employer is required to bargain the impact of such decision (impact bargaining)
- Grievance/arbitration procedure
- Procedures for determining layoff/recall
- Evaluation procedures
- Work rules
- Subcontracting - only if the work has been "exclusively" performed by unit members.
- Discharge and discipline
- Paid time off for union business (but note - the use of the employer's facilities for union business is not a mandatory subject)

EXAMPLES OF NON-MANDATORY SUBJECTS

- Demands which go to the heart of the employer's mission, or which relate to the extent of services to be rendered to the public are not mandatory subjects of negotiation.
- Budget cuts
- Reductions in force
- Filling of vacancies
- Class size - but note; because this is related to teacher workload, if class size is increased, employers may have to bargain the *impact* of the decision.
- Job Assignments, including extra-curricular activities; as long as the employer does not add duties beyond the "*essential character*" of the position.
- Employer's organizational structure
- Manpower/staffing
- Shift Assignment
- Departmental rules that do not concern terms and conditions
- Public policy matters covered by statute. If redundant provisions are negotiated into the contract, they become mandatory subjects.
- Qualifications for appointment.
- Qualifications for promotion *outside* of the bargaining unit are *non-mandatory*, but *within* the bargaining unit are *mandatory*.

EXAMPLES OF PROHIBITED SUBJECTS

- **Tenure - the right to confer tenure rests with the Board of Education, but the preliminary procedural steps leading up to the final tenure decision are negotiable.**
- **The Board of Education's right to inspect personnel files cannot be negotiated.**
- **Subcontracting to BOCES is a prohibited subject.**
- **Drug testing for bus drivers is prohibited - but the specifics that are not covered by the law can be negotiated.**
- **Pension/Retirement Benefits Clauses**