



Labor Relations Bulletin

FROM THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

February 23, 2024

Navigating Mandatory, Permissive & Illegal Subjects of Bargaining

Collective bargaining isn't just a handshake deal – it's a carefully strategized journey down a nuanced highway with three distinct lanes: Mandatory, Permissive, and Illegal. Navigating these lanes effectively means understanding their boundaries and how they impact the relationships of the parties during negotiations.

Mandatory: The Must-Haves

- Required topics that must be addressed. Wages, benefits, hours of work and safety must be negotiated.
- Think of it as the foundation – a secure agreement establishes stability for both employers and employees. Progress demands negotiation, and finding creative solutions within the legal framework is key.
- Any subject that impacts any of the three areas has to be negotiated in good faith, but does not necessarily have to reach agreement.
- Many of these topics may look familiar – they are captured in the NECA-IBEW Pattern Agreement Guide Category 1 Language.
- Examples of mandatory subjects include:
 - Apprentice ratios
 - Bargaining unit work
 - Breaks and lunch periods
 - Classifications
 - Discipline and discharge
 - Dues check off
 - Grievance procedure
 - Health and insurance
 - Holiday pay & holidays
 - Hours of work
 - Layoff and recall
 - Leaves of absence
 - No strike clause
 - Nondiscrimination
 - On-call pay
 - Overtime
 - Pay for seniority rights
 - Severance pay
 - Shift premiums
 - Sick days
 - Subcontracting
 - Term of agreement
 - Testing of employees
 - Training funds
 - Tuition reimbursement
 - Union security clauses
 - Wages and work schedules

Permissive: The Two-Way Street

- Optional topics that parties may choose to include in negotiations. Offering flexibility, the topics of discussion can be things like training programs, work rules, and other items.
- It's a two-way street – if one party isn't interested, the other can't force the issue. The focus here should be on mutual benefit.
- Either party may choose to keep it on the table, but they cannot force such an issue to impasse.
- A strike or lockout over a permissive subject would be an unprotected activity, and unilateral implementation would be illegal.
- Examples of permissive subjects include:
 - Negotiating ground rules
 - Supervisor's conditions of employment
 - Interest arbitration
 - Settlement of a ULP charge
 - Pensions for retired members
 - Use of the Union label/flag
 - Internal union matters (steward appointment, union dues, officer structure, bylaws)
 - Recognition clause defining the bargaining unit
 - Either party's bargaining committee composition
 - Composition of the employer's Board of Directors or Trustees
 - Demanding that a union settle arbitrable grievances filed under the previous contract.

Illegal: The No-Go Zone

- Prohibited topics that cannot be legally negotiated. Imagine a flashing red light at the entrance: Discrimination, political activity, and unfair labor practices are strictly off-limits.
- Agreements can't even tiptoe into this lane, as doing so risks legal repercussions and stall progress.
- Both NECA and IBEW are obligated to operate ethically and uphold legal standards, ensuring a fair and transparent bargaining process.
- Examples of illegal subjects include:
 - Closed shop provisions
 - Discrimination
 - Hot cargo clauses

NECA Chapters and NECA members can find the latest on the NLRB and bargaining in good faith [here](#)

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