



## 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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