

Is it Negotiable?

The New Jersey Public Employer-Employee Relations Act controls those items that have been deemed mandatory topics and illegal topics of negotiations. The following list summarizes what is commonly referred to as the “scope of negotiations” under New Jersey public sector labor law.

NOTE: The following lists are not exhaustive.

Mandatory Topics

School boards are required to negotiate with an employee representative over the following topics.

- Advisory arbitration for the application of management prerogatives to individual employees.
- After school teacher-only workshops.
- Agency shop.
- Commencement date of negotiations.
- Committees on non-negotiable topics that have merely advisory authority.
- Compensation – all forms.
- Discipline procedures consistent with applicable statutes.
- Discipline of school employees in accordance with applicable statutes.
- Duration of the collective bargaining agreement – subject to statutory limit of five years.
NOTE: County Colleges are an exception to this limitation.
- Duty-free lunch. No minimum guaranteed.
- Permitting staff to leave building during lunch.
- Employee rights clause.
- Evaluation procedures that do not contravene statute or administrative code.
- Number of evaluations above minimum set by state rules and regulations
- Extracurricular assignments – certain aspects.
- Fair dismissal procedures that do not interfere with the nonrenewal of nontenured teachers.
- Flex time.
- Fringe benefits, including benefits for RIFed employees if incorporated into the contract.
- Grievance procedures. (Binding arbitration of school employees’ grievances over minor discipline, however, is statutorily mandated and is, therefore, not negotiable.)
- Health and safety issues.
- Hiring procedures.
- Holidays – number of.
- Hours of work.
- Insurance, including disability income.
- Job security for employees not covered by statutory tenure provisions.
- Leaves of absence in excess of statutory guarantees.
- Maintenance of benefits clause.
- Management rights clause.
- Merit pay – including evaluation criteria.
- No-strike provision.
- Overtime provisions, rotation, pay rate.
- Payment for unused accumulated sick leave.
- Past practice/savings clause.
- Personal leave.
- Personnel file – access to.
- Physical facilities and working conditions.
- Posting procedures.
- Pre-employment Incentives
- Preparation periods – length and number of and use of.
- Promotion procedures.
- Recognition clause.
- Reduction in Force (RIF) – notice provisions and compensation for remaining staff if there is a significant increase in workload.
- RIF procedures if NOT covered in statutes, as such as:
 - seniority
 - recall
 - bumping rights.
- Release time. Compensation/ release time for SCIP team members.
- Sabbatical leaves.
- Safety issues.
- Salary guide initial placement, credit for experience, education.
- School Nurses can be required to remain onsite.
- Seniority/recall procedures for employees not covered by specific statutes or regulations.

- Shifting unit work from unit employees to employees outside the unit.
- Sick day bank.
- Sick leave:
 - above the statutory minimum.
 - payment for verification.
- Summer session – procedures for filling positions.
- Teacher-pupil contact time.
- Teaching periods – number of.
- Transfer and assignment procedures.
- Union business – time off for; use of prep period.
- Tuition reimbursement.
- Use of sick leave for family members. NJFLIA.
- Vacations.
- Workload.
- Workday – length of.
- Work schedule including creation of new shift(s).
- Work year – length of (for teachers this is mandatory only in regard to those days in excess of the 180 student-day minimum required for state aid).
- Zipper clause.

Illegal Topics

These items have been determined to be illegal topics of bargaining because they involve matters of educational policy or inherent management prerogatives.

Call your UniServ office if you have any questions about these topics.

- Absenteeism and tardiness policies.
- Academic calendar.
- Affirmative action plans.
- Assignment – other than extracurricular.
- Audio-visual equipment – use of.
- Budget formulation.

- Class size.
- Curriculum.
- Decision to assign bus, cafeteria, corridor, and playground supervision. Compensation is, however, negotiable.
- Decision to reschedule snow days during teacher vacation period. (Impact is negotiable.)
- Decision to go to split sessions.
- Design of students' school day.
- Dress code.
- Evaluation:
 - selection of evaluator.
 - advance notice of observation.
 - application of criteria.
- Facilities relating to the education process.
- Impact of non-negotiable decisions.
- Instructional materials.
- Lesson plans:
 - format of.
 - scheduling of submission.
- Number of employees and deployment of personnel.
- Paraprofessionals – use of.
- Parent-teacher conferences:
 - decision to schedule.
 - changes in number of evening conferences for policy reasons (subject to negotiations over compensation).
- Productivity studies.
- Qualifications for:
 - employment.
 - increment.
 - promotion.
- Sick leave – verification of.
- Staffing – number of employees.
- Student-related issues:
 - discipline.
 - grading.
 - grievance procedure.
 - safety.
 - testing.

- Subcontracting – decision to.
- Supervision of employees by department chairperson.
- Tenure-certificated employees.
- Transfer – decisions and criteria (other than disciplinary transfers of school employees).

These items have been determined to be illegal topics of bargaining because they contravene specific statutes or regulations.

- Composition of the bargaining team.
- Decision to RIF.
- Early retirement incentives.
- Evaluation criteria.
- Extended sick leave.
- “If/When” clause.
- Impact of RIF on remaining teachers and on RIFed teachers when there is no significant increase in work load.
- Maintenance of membership clauses.
- Nonrenewal of nontenured teachers.
- Parity.
- Pensions. (Although you may negotiate employer contributions to a 403(b) plan and 45, subject to legal requirements.)
- Religious leave – paid (if not charged to general personal leave or vacation).
- Seniority provisions inconsistent with Title 18A.
- Sick leave:
 - unlimited blanket.
 - use of for other than statutory purposes.
- Smoking in school buildings.
- Student grievance procedures.
- Sunshine bargaining as a precondition to negotiations.
- Withholding of increments – procedures established by statute or regulation.