

MAKING INFORMED DECISIONS

What a union can – and can't – achieve through bargaining

The [National Labor Relations Act \(NLRA\)](#)—the federal law regulating unions, employers, and employees in the private sector—**does not require employers to bargain collectively over every aspect of their businesses**, but *only over wages, hours, and other working conditions for employees in the bargaining unit (or employees the union represents)*. Bargaining topics are classified into two categories:

Mandatory subjects are those related to wages, hours, or working conditions for bargaining unit employees. The union and the employer must bargain about these. Even so, the law does not require an employer to agree to a union's proposals—only bargain, or negotiate, in good faith.

Mandatory (employer must bargain, but is not required to agree to union's proposals):

- Wages
- Bonuses
- Benefits
- Hours
- Other working conditions for employees in the bargaining unit

Permissive subjects are those unrelated to wages, hours, or working conditions for bargaining unit employees. An employer can refuse a union's request to bargain over these and can make changes to these without bargaining.

Permissive (employer can refuse to bargain these and can make changes without bargaining):

- Wages, bonuses, benefits, hours, or other working conditions for supervisors or other non-bargaining-unit staff, including store support
- Product assortment, retail pricing, merchandising, and marketing
- New store openings/locations
- Certain business decisions involving financial arrangements, business-success metrics, relationships with vendors or suppliers, or changes to the scope, nature, or direction of the business

Staff should ***take a critical eye to the promises organizers are making***. Much of what we are being asked about in conversations, in Coffee Talks or in Speak Ups, is outside the scope of bargaining obligations under federal law. Even if a topic is subject to bargaining, there is a difference between making a promise and then delivering. Unions are not prohibited from making promises about changes to wages, hours, and working conditions, **although unions have no way to guarantee their ability to deliver on them.**

All of this information can be verified by the National Labor Relations Board (NLRB) or on the agency's website: www.nlr.gov/.

