

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, if earlier than the date set by PERC.
- 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 3 years. NOTE: County Colleges are an exception to this limitation.
- Duty-free lunch.
- 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.
- 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.

- 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.
- Sabbatical leaves.
- Safety issues.
- Salary guide initial placement, credit for experience, education.
- 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.
- 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.

- 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.
- 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.
- Streamlined Tenure – Charter school – teaching staff, janitors, and secretaries only.
- Student-related issues:
 - discipline.
 - grading.
 - grievance procedure.
 - safety.
 - testing.
- Subcontracting - decision to.
- Supervision of employees by department chairperson.

- Teacher aides – use of.
- 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.
- Discipline - procedures ending in binding arbitration for non-school employees with other statutory appeals procedures.
- 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, 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.