Mandatory Subjects of Bargaining

The Facts

What is Collective Bargaining? Collective bargaining is the process of negotiating a legally binding contract between a union and their employer. This contract spells out the wages, hours of work, benefits and other terms of employment. After being certified by the NLRB as the exclusive bargaining representative for a group of employees, the union is empowered by Federal Law to negotiate such an agreement.

What Are Mandatory Subjects of Bargaining? Mandatory subjects of bargaining are those subjects that impact wages, hours of work, benefits or working conditions. These subjects have been described as being subjects that “Vitally affect” employees. This means that any of these subjects when brought to the bargaining table by either the union or the employer must be negotiated on in good faith.

Mandatory subjects for the most part are straightforward. Examples of mandatory subjects include but are not limited to:

- Wages, shift premiums, overtime, premium pay, longevity, pay for training, holidays, sick days, hours of work, work schedules, grievance procedures, workloads, vacancies, promotions, transfers, layoff and recall, discipline and discharge, dues check off, on call pay, severance pay, pensions, health insurance, leaves of absence, tuition reimbursement, job duties, seniority, probationary period, testing of employees, rest and lunch periods, bargaining unit work, subcontracting, no strike clause nondiscrimination, etc.

What are Permissive Subjects of Bargaining? Permissive or non-mandatory issues of bargaining are subjects that the parties may bargain over but are not required by law. If the employer places a permissive subject on the table, the union may discuss the issue but it is not required to do so. The union may agree to discuss the issue, engage in full bargaining or refuse to discuss it at all. Examples of permissive bargaining issues are:

- Definition of the bargaining unit (found in the recognition clause), retiree benefits, internal union matters (such as how stewards are selected, the amount of union dues, union officer structure, etc.), supervisors’ conditions of employment, interest arbitration and the make up of the employers board of trustees or directors.

This is an important category to keep in mind as the union negotiates. It’s not unusual to get held up at the bargaining table on an issue that the union can simply determine to be permissive and decline to negotiate over it.

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