

What is Bargainable in the Contract, What to Watch For

As a steward, part of your job is to understand what working conditions should be bargained and what management can “unilaterally impose” after the contract is in place.

For example, a recent Public Employment Relations Commission (PERC) decision that turned out to be favorable for the union side was the result of a steward who knew what to watch for.

In the case, employees had always parked for free at their work site. When management notified the employees that they would be charged for parking in the future, the steward knew to contact the union representative immediately.

PERC ruled that parking charges are a mandatory subject of bargaining. The employer was required to give the Local 17 notice of the change and it was up to the union to request negotiations on the subject.

The steward and the membership should be the “eyes and the ears” for the unit and be able to identify violations of the contract and be familiar with bargaining subjects and procedures. Here is some more information on what can be bargained and how.

Mandatory Subjects of Bargaining

Both the employer and the union are required to bargain over “wages, hours, and other terms and conditions of employment.” This has been defined to include wages, health care, retirement, grievance procedures, arbitration, health and safety, holiday pay, sick leave, nondiscrimination clauses, no-strike clauses, length of contract, management rights, discipline, seniority, and union security. (However, this list is not exhaustive.)

These areas are mandatory subjects of bargaining, meaning that neither the employer nor the union can refuse to bargain these subjects.

Unilateral Changes and the Duty to Bargain

A “unilateral change” occurs when an employer or union engaged in a collective bargaining relationship effects a change of employee wages, hours or working conditions without having given notice of the contemplated change to the opposite party and provided opportunity for good faith bargaining, on request, prior to the actual implementation of the change.

Should an employer refuse to negotiate changes under these conditions, the union can file an Unfair Labor Practice (ULP) with the Public Employment Relations Commission (PERC).



Public Employment Relations Commission (PERC)

The Public Employment Relations Commission (PERC) is a state agency, which is responsible for providing impartial, efficient and expert resolution (mediation) of labor-management disputes for all non-federal public agencies in Washington state.

Effects (Impact) Bargaining

Certain decisions are within management’s right to make (e.g. entrepreneurial decisions).

Although management is not obligated to bargain with the union regarding such decisions, such decisions may impact mandatory subjects of bargaining. The bargaining that must occur over these impacts is known as “Effects Bargaining.”

Permissive Subject of Bargaining

Permissive subjects fall outside of the mandatory categories of “wages, hours and working conditions.” Permissive subjects may be proposed during bargaining, and bargaining may occur, but it is not legally required.

Permissive subjects can include: evaluations, numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or the technology, methods and means of performing work. If one party elects not to bargain the topic, the other party must drop the topic. Parties may not bargain to impasse over permissive subjects. — *By Rene Jankiewicz, Local 17 Union Representative*