

AT A GLANCE

This guide provides local leaders with a quick overview of “mandatory subjects of bargaining” and lists typical bargaining subjects that arise in the education workplace. *This is not an exhaustive list.* In fact, a truly exhaustive list would be impossible to provide.

Massachusetts General Law Chapter 150E governs collective bargaining and public-sector labor relations. Section 6 states that the employer and the union:

... shall negotiate in good faith with respect to wages, hours, standards or productivity and performance, and any other terms and conditions of employment, including without limitation, in the case of teaching personnel employed by a school committee, class size and workload. . . .

Determining whether an issue is a mandatory subject of bargaining can be difficult. Bargaining subjects often conflict with managerial rights that “exclusively” belong to the public employer as a matter of law or public policy. Bargaining rights and managerial rights are often inextricably linked, raising questions of whether you have the right to bargain a management decision or only the “impacts” of the decision.

Bargaining obligations may arise at different times. For example, are you negotiating an initial or successor collective bargaining agreement, or are you at “mid-term” in the agreement? Knowing what constitute subjects of bargaining and the terms of your agreement will help you avoid inadvertently waiving bargaining rights.

This pamphlet provides examples of mandatory, permissive and impact only bargaining subjects. Your MTA field representative, and if necessary the MTA Legal Services Division, are available to assist.

ABOUT THE MTA

MTA Mission Statement

The Massachusetts Teachers Association is a member-driven organization, governed by democratic principles, that accepts and supports the interdependence of professionalism and unionism. The MTA promotes the use of its members’ collective power to advance their professional and economic interests. The MTA is committed to human and civil rights and advocates for quality public education in an environment in which lifelong learning and innovation flourish.

MTA Offices

MTA Quincy Headquarters
2 Heritage Drive, 8th Floor
Quincy, MA 02171-2119
ph: 800.392.6175

Auburn Office
48 Sword Street
Auburn, MA 01501
ph: 800.542.5504

Boston Office
20 Ashburton Place, Suite 301
Boston, MA 02108
ph: 855.336.0222

Holyoke Office
55 Bobala Rd, Suite 3
Holyoke, MA 01040
ph: 800.432.1117

Lynnfield Office
50 Salem Street
Building B, Suite #9
Lynnfield, MA 01940
ph: 800.421.3332

Metropolitan Office
2 Heritage Drive, 8th Floor
Quincy, MA 02171-2119
ph: 800.479.1410

Pittsfield Office
188 East Street
Pittsfield, MA 01201-6124
ph: 800.464.8088

Raynham Office
756 Orchard Street, 3rd Floor
Raynham, MA 02767
ph: 800.336.1118



A Guide to SUBJECTS OF BARGAINING

Performance Standards • Evaluations • Union Security
Impact Bargaining • Discipline • Assignments • Policies
Workload • Dress Code • Class Size • Seniority • Release
Time • Inclusion • Grading • Grievances • Arbitration • Tenure
Transfers • Orientation • Professional Development • Health
and Safety • Job Descriptions • Tuition Reimbursement
Past Practice • Induction • Union Security • Subcontracting
Workday • Job Training • Distance Learning • Negotiations
School Calendar • Technological Change • Intellectual
Property • Just Cause • Class Size • Health Insurance
Leave • Pay • Retirement • Hours • Performance Standards
Evaluations • Union Security • Impact Bargaining • Discipline
Assignments • Policies • Workload • Dress Code • Class Size
Seniority • Release Time • Inclusion • Grading • Grievances
Arbitration • Tenure • Transfers • Orientation • Professional
Development • Health and Safety • Job Descriptions • Tuition
Reimbursement • Past Practice • Induction • Union Security
Subcontracting • Workday • Job Training • Distance Learning
Negotiations • School Calendar • Technological Change
Intellectual Property • Just Cause • Class Size • Health
Insurance • Leave • Pay • Retirement • Hours • Performance
Standards • Evaluations • Social Security • Impact Bargaining
Discipline • Assignments • Policies • Workload • Dress
Code • Class Size • Seniority • Release Time • Inclusion
Grading • Grievance • Arbitration • Tenure • Transfers
Orientation • Professional Development • Health and Safety
Job Descriptions • Past Practice



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Wages and Benefits

- » Health Insurance
 - › Co-pays
 - › Premium splits (preK-12)
 - › Identity of plans (preK-12)
 - › Flexible spending/dependent care accounts
 - › Health & welfare trust funds
 - › Impact of GIC decisions
- » Leave
 - › Bereavement
 - › Family and Medical Leave Act (FMLA)
 - › Leaves of absence, paid and unpaid
 - › Maternity/paternity
 - › Sabbatical
 - › Sick leave
 - › Sick leave bank
- » Pay
 - › Additional duties (e.g., committees)
 - › Class coverage for absent professionals
 - › Differentials
 - › Longevity
 - › Overtime
 - › Payday schedules
 - › Payroll deduction
 - › Salary scales
 - Initial placement for new positions
 - Advancement for courses/degrees
 - › Stipends (e.g., coaching, extracurricular activities)
- » Retirement
 - › 403B plans
 - › Retirement incentives
 - › Sick leave buy-back

Hours

- » Double sessions
- » Flexible schedules
- » Length of the workday
- » Length of the work year
- » Night meetings
- » Release time days

Performance Standards and Evaluations

- » Mentor programs
- » Performance evaluation procedures
- » Performance standards
- » Orientation and induction
- » Professional development

Union Security

- » Access to members
- » Union leave, release time
- » Receipt of updated employee lists

Other Conditions of Employment

- » Acceptable-use policies (email, internet, social media)
- » Agency service fee
- » Assignments
- » Background, CORI checks
- » Block scheduling
- » Discipline
 - › Just cause and due process
 - › preK-12 teacher dismissal is set by statute
- » Distance learning (prep, payment, royalties)
- » Dress code
- » Grading procedures
- » Grievance and arbitration procedures
- » Health and safety issues
 - › Building issues (e.g., asbestos, mold)
 - › Building construction, renovation
 - › Reimbursement for damage to personal property, vehicles
 - › Student violence
- » In-district registration for students of staff (preK-12)
- » Inclusion
- » Intellectual property rights
- » Job descriptions
- » Mandatory job training
- » Parking
- » Past practice provisions
- » Personnel files
- » Promotion and tenure procedures (higher ed)
- » Impact of a decision to privatize services
- » Reduction-in-force procedures
- » School calendar
- » Seniority
- » Subcontracting out bargaining unit work
- » Technological change
- » Transfer procedures, voluntary and involuntary
- » Tuition and course reimbursement
 - › Tuition benefits for family members (higher ed)
- » Workload issues
 - › Class size
 - › Number of classes/courses taught
 - › Duty-free lunch
 - › Prep and team time
 - › Supervisory duties
 - › Workday structure
 - Block scheduling
 - Class length
 - Extra duties (e.g., bus, lunch, committees)
 - › Use of teachers or ESPs as substitutes

Permissive Subjects of Bargaining

Permissive subjects of bargaining are nonmandatory subjects that the parties can agree to discuss, but neither party can insist upon to the point of impasse. If a permissive subject is agreed to by the parties, it is enforceable.

- » Definition of the bargaining unit (recognition article)
- » Ground rules for negotiations
- » Retiree health insurance (does *not* include retiree premium splits)

Impact Bargaining Only

There are some subjects that are explicitly governed by statute or are otherwise deemed to be the exclusive prerogative of management. While parties cannot bargain decisions related to these subjects (sometimes referred to as “unlawful subjects”), there are often impacts and procedures related to such decisions that are negotiable.

- » Education policy
- » Hiring/firing decisions
- » Level of services decisions
- » PreK-12 teacher dismissal procedures
- » Retiree health insurance premium splits