Permissive subjects of bargaining are those subjects over which the parties are not required to bargain. They do not pertain to wages, hours and other terms and conditions of employment. They may be proposed by either party, but neither party can insist upon the acceptance of such subjects as condition of executing a contract. Examples of permissive bargaining subjects are:

1. Products to be manufactured
2. Requiring a strike-vote by employees before a strike is called.
3. General business practices
4. Selection of negotiators
5. Performance bonds such as cash deposit to assure payment of wages and fringe benefits
6. Indemnity Bonds
7. Insistence on a contract clause outlining the union’s liability in the event of a violation of a no-striking pledge
8. Union Matters
   (a) Composition of the employees’ shop committee.
   (b) A requirement that a contract be ratified by secret employee ballot and a clause providing that contract would become void whenever more than 50% of employees dropped the checkoff.
(c) A condition requiring that the union first organize the industry before the employer bargains.
(d) A requirement that the union give membership withdrawal cards to employees transferred out of the unit and that shop stewards be chosen from among senior employees.
10. A union’s insistence upon bargaining for a unit larger than is covered by its certification.
11. Demands that the union permit the employer to use the union label or that the international union, not just the local, sign a contract.
12. A demand that each grievance be signed, by individual employees.
13. The terms and conditions of employment for workers hired to replace strikers.

Due to the likelihood of such subjects possibly being confused with mandatory subjects of bargaining, it is suggested that if a question arises as to whether a subject is required to be bargained for, an up-to-date opinion should be obtained. The labor law is a dynamic area of the law which may change rapidly, particularly in the classification of mandatory versus permissive bargaining subjects. If there is any doubt, a legally safe approach is to bargain over the issue and decline to agree to it. If management declines to bargain over a subject which is mandatory rather than permissive, then the union will have grounds for filing an unfair labor practice charge with the N.L.R.B.

There are subjects which are not proper for bargaining even on a voluntary basis and should be avoided. The following subjects are included:

1. Change in bargaining jurisdiction between two unions on a unilateral basis or by agreement with one union only.
2. Inclusion of a hot cargo or secondary boycott provision which does not come under the exceptions of the allied doctrine or preservation of work doctrine.
3. Bargaining on issues beyond the appropriate bargaining unit.
4. Any language which violates federal or state statutes such as validation of a closed shop provision requiring union membership before or at the time of first employment.