



EMPOWERING

LEADERS

2024 UNA
LABOUR SCHOOL

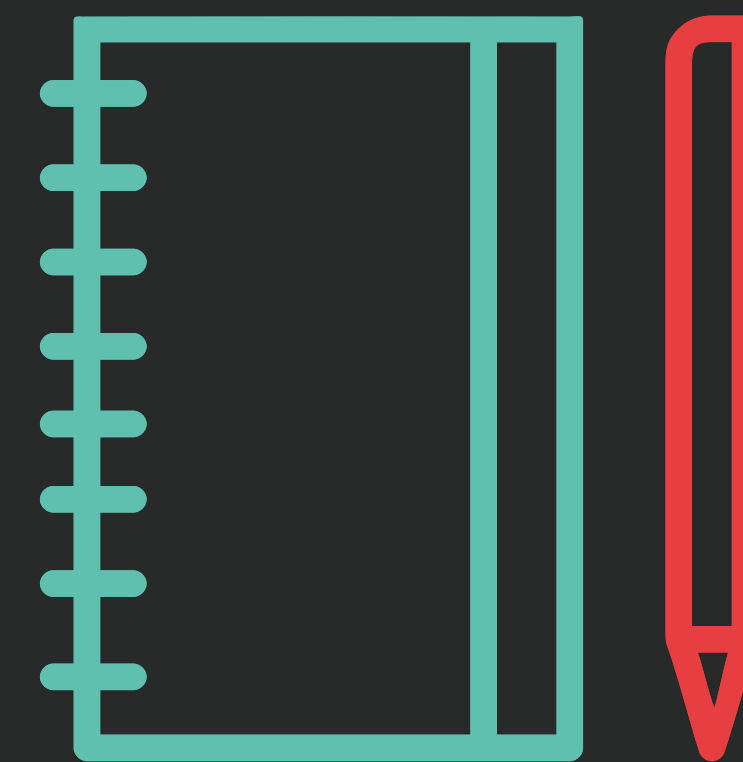
Does it really say that?!

Contract Interpretation

April 22-25, 2024 | Canmore, AB



Housekeeping



Introductions

At your table, share your:

- ★ Name
- ★ Pronouns (if you want to share)
- ★ Local & Role in Local
- ★ Comfort level with reading collective agreements



Agenda

- ✓ Collective Agreement Basics
- ✓ Interpreting Collective Agreements
- ✓ Applying the Collective Agreement
- ✓ Scenarios



Collective Agreement Basics

What is a Collective Agreement?

- Legal contract between a Union & Employer
- Negotiated on behalf of a group of employees (bargaining unit)
- Sets out rights & obligations of the parties
- Typically cover wages, hours, & working conditions



Structure of Collective Agreements

- ▶ Cover

- ▶ Articles

- ▶ Table of Contents

- ▶ LOUs

- ▶ Index

Collective Agreement Staples

- ▶ Management Rights

- ▶ Union Recognition

- ▶ Dispute Resolution Process

- ▶ No Strike /
No Lockout

Management Rights



"I used to lead by example but
it was too much work."

Activity

Find:

- ▶ Management Rights
- ▶ Union Recognition
- ▶ Dispute Resolution Process
- ▶ No Strike/No Lockout



Interpreting Collective Agreements



I know you think you understand what you thought I said but I'm not sure you realize that what you heard is not what I meant.

External Factors Impacting Interpretation

- ▶ Legislation

- ▶ Arbitration Awards

- ▶ With Prejudice Settlements

- ▶ Estoppel & Past Practice

Words are
given their
normal or
ordinary
meaning

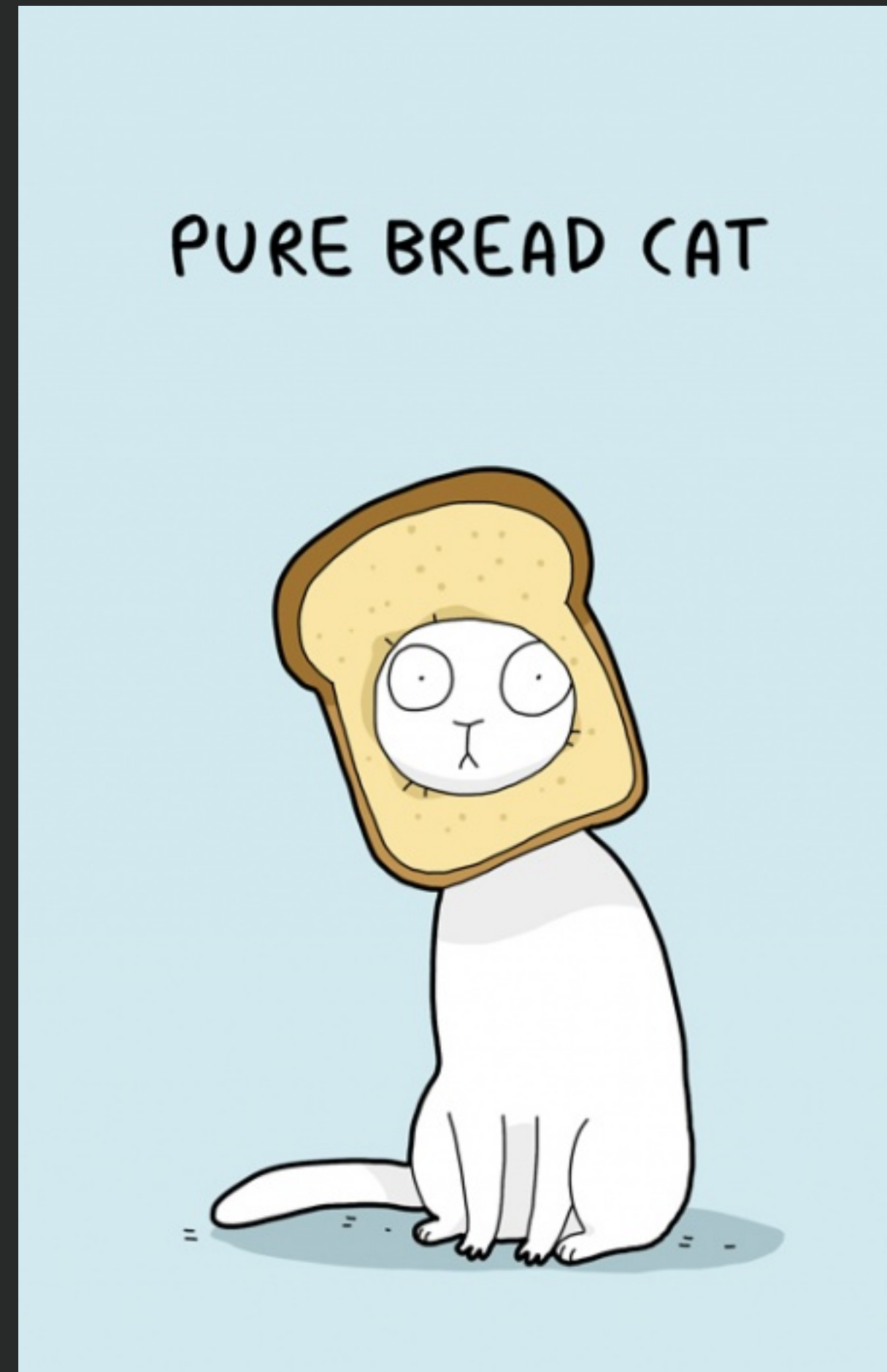
Everyday meaning of the
word is given the most
weight.

- “Definitions” article outlines
specific meanings.

All words have meaning All words the parties used have meaning, including headings.

The same
words should
be given the
same meaning

Different words should be
given different meanings.



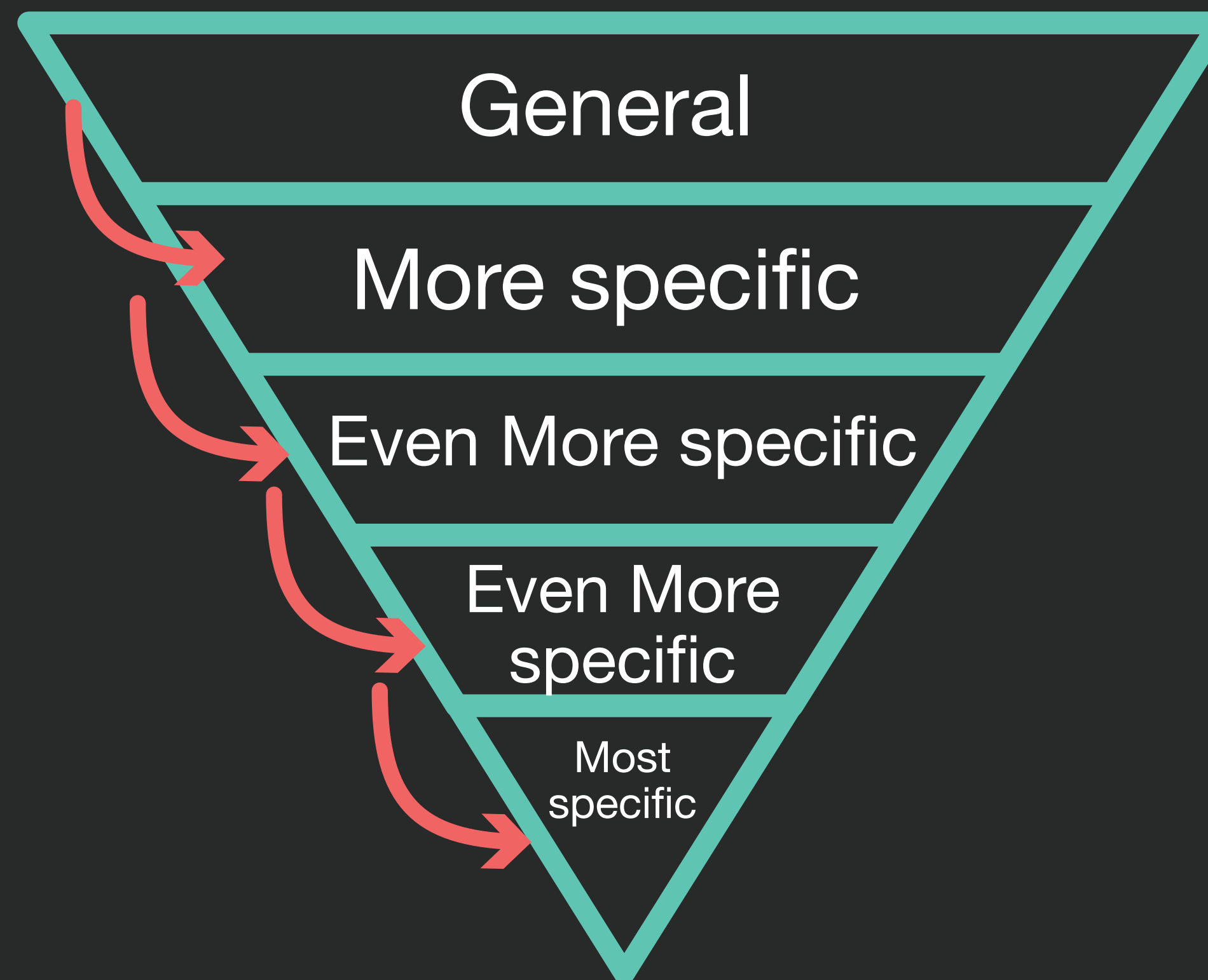
The collective
agreement
must be read
as a whole

Words must be read in the
context of the sentence,
section, & entire agreement.



The specific
overrides the
general

Language applicable in specific
circumstances prevails over
general language.



Watch for
ambiguous
language

Subjective & ambiguous
language may have a range of
possible effects or
interpretations.

Discretionary
vs. mandatory

Mandatory - must, shall, will
Discretionary - may

What is written
is what was
intended

The intent of the parties is determined by the words they used in the agreement, with consideration of known surrounding circumstances.

Subordinating & superordinating language

Phrases like “subject to,” “notwithstanding,” or “despite” show which provision prevails in the event of a conflict.

Expressio unius
est exclusio
alterius

The expression of one thing is
the exclusion of others.

Exhaustive vs. non-exhaustive

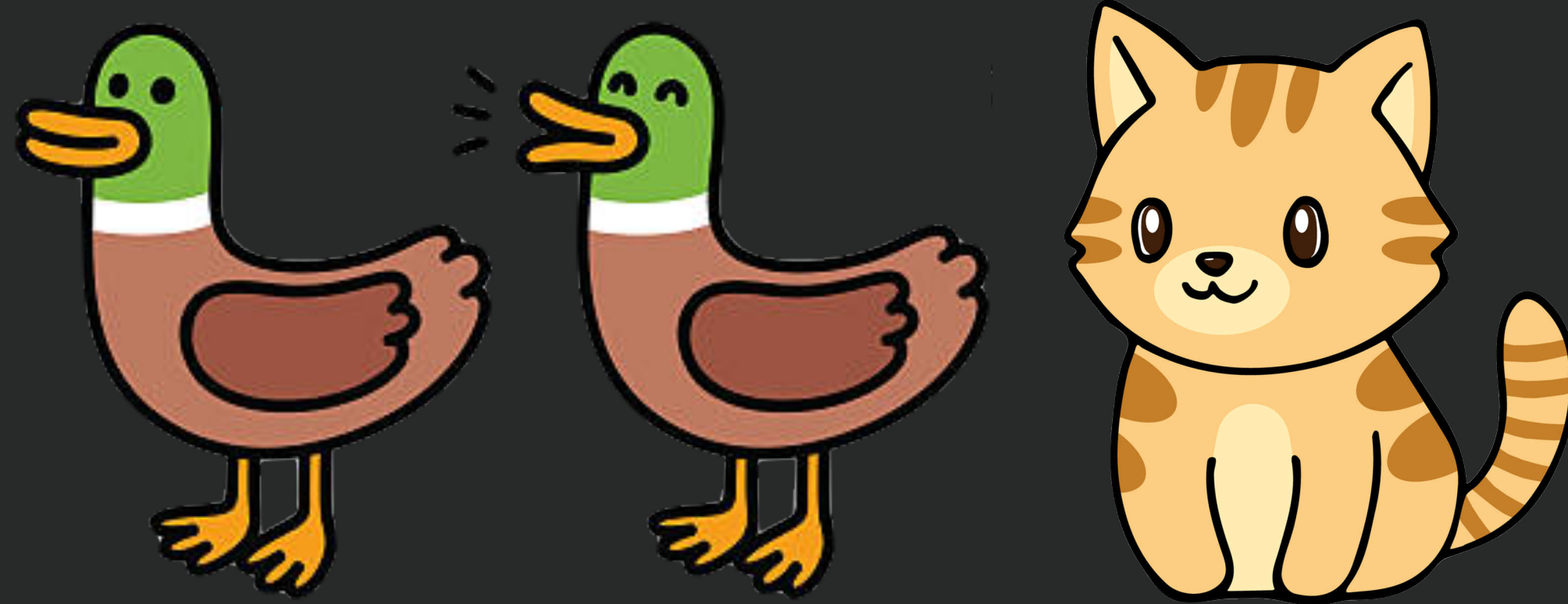
“For example,” “e.g.,” and “include” introduce examples, not a full list. “i.e.” restates what has been said (exhaustive).

Conjunctive vs.
disjunctive

“**And**” combines things.
“**Or**” separates things.

Ejusdem
generis

Of the same class.



Words & Punctuation Matter

We arrived with our cats, Aunt Amy, and Uncle Jeff.



Without the Oxford Comma:

We arrived with our cats, Aunt Amy and Uncle Jeff.



A note about Pyramiding

Stacking two or more premiums under two different provisions for the same hours of work.

- ▶ Generally permissible if premiums are for different purposes & not compounded.
- ▶ Generally not permissible where CA expressly prohibits pyramiding or premiums are compounded.



Trivial Purrsuit



Question One

The Collective Agreement says “World of Cats will endeavour to have a purrfect workplace.”

What is the main problem with this clause?

Question Two

The Collective Agreement provides Employees with free seafood on Named Holidays and free fish when working overtime. The Employer says it will provide shrimp on overtime because that's what it provides on Named Holidays.

What interpretive principle(s) applies?

Question Three

Which language is purrfurred if you don't like fish? What principle applies?

The Employer will provide a meal of:

- (a) mouse, rat, or fish
- (b) mouse, rat, or similar
- (c) mouse, rat, and fish

Question Four

The Collective Agreement says “All Employees will wear Detroit Tigers jerseys on game day.”

Can they wear Florida Panthers jerseys on Panthers game days? Why/why not?

Question Five

World of Cats implements a new policy where Employees are assigned cat-napping spots based on date of hire. The Agreement does not address cat-napping spots.

Which article likely governs?

Question Six

The Collective Agreement says “Upon ratification, all Employees shall receive a bonus of a 6-month supply of sardines or a new scratching post.”

Conjunctive or disjunctive?

Question Seven

The Collective Agreement says “lions, leopards, and tigers are not allowed in the lunchroom.”

Can cougars go in the lunchroom? What interpretive principle applies?

Question Eight

The Collective Agreement says “big cats (e.g. lions, leopards, and tigers) are not allowed in the lunchroom.”

Can cougars go in the lunchroom? What interpretive principle applies?

Question Nine

The Collective Agreement says “Upon reaching 20 years of service, Employees will receive a cell phone with a Hello Kitty phone case.”

Are Scooby Doo phone cases an appropriate alternative? What interpretive principle(s) applies?

Question Ten

- (a) The Collective Agreement says “purr-furred cat-napping spots will be assigned by seniority.
- (b) Notwithstanding (a), large cats will receive larger cat-napping spots.”

Which clause prevails in the event of a conflict?

Applying the Collective Agreement

The 4-Step Approach

4-Step Approach

Step 1

What is the right?

Step 2

Who owns the right?

Step 3

What conditions need to be satisfied?

Step 4

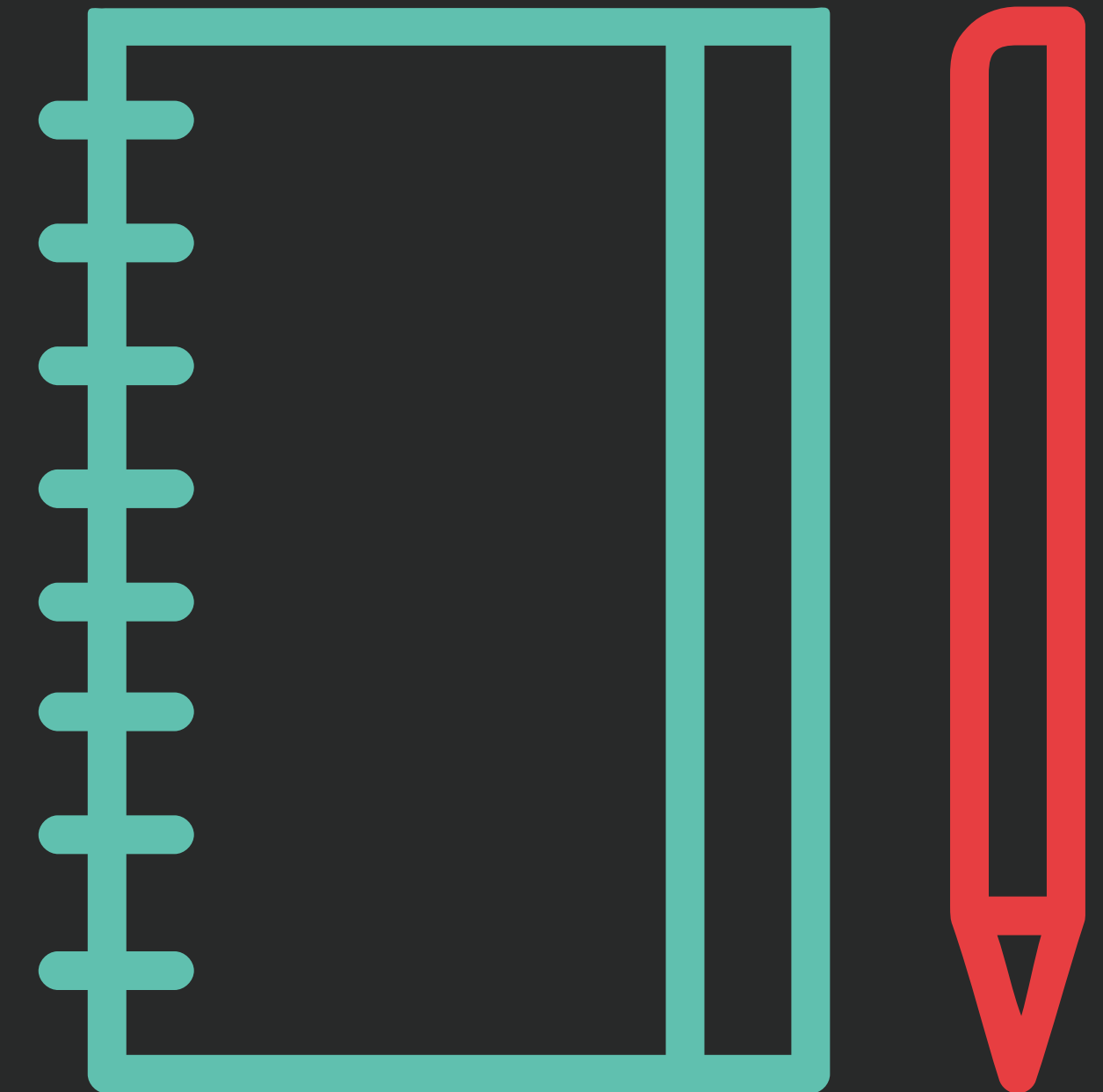
What obligation must be met?

Apply the 4-step approach to the following articles in the World of Cats/CATS Collective Agreement:

11.03 - Hiring

14.05 - Shift Exchanges

30.01 - Unpaid LOA



Scenarios

Choose questions to answer from the scenarios provided.

Difficulty Level:

Easy

Medium

Difficult

Thank you!

Reminder:

Don't forget to complete
a feedback form.

