



DOES IT REALLY SAY THAT?! CONTRACT INTERPRETATION

PARTICIPANT WORKBOOK

April 22-25, 2024 | Canmore, AB

Land Acknowledgement

United Nurses of Alberta respectfully acknowledges that the land on which we are privileged to gather is the traditional territory of diverse Indigenous peoples and encompasses Treaties 6, 7 and 8, parts of Treaties 4 and 10, and the homes, travelling routes, and meeting grounds of many whose histories, languages, and cultures continue to influence our service and advocacy as members of the nursing profession. These include Cree, Dene, Inuit, Iroquois, Metis, and many other Indigenous peoples. Our recognition of this land is a small but important part of our responsibility in reconciliation and an expression of our gratitude to those on whose territory we reside or are visiting.

TABLE OF CONTENTS

What is a Collective Agreement?.....	3
Reading a Collective Agreement.....	5
Other Interpretive Principles.....	6
Activity – Trivia.....	7
Applying the Collective Agreement.....	8
Activity – 4 Steps.....	9
Activity – Scenarios.....	10

ABOUT THE WORKSHOP

Learning Objectives

At the end of this workshop, participants should be able to:

- > Navigate collective agreements and related resources.
- > Understand and apply the main rules of collective agreement construction.
- > Appreciate how factors outside of the plain language may impact interpretation.
- > Interpret and explain simple and more complex clauses.

Workshop Offerings

Each participant will attend 3 workshops over the course of the Labour School.

- > Truth & Reconciliation:
The Blanket Exercise
- > Inclusive Workplaces /
Inclusive Communities
- > Mental Health, Addictions,
& Return to Work
- > Giving Meaning to the Squiggles
on a Piece of Paper, AKA Scheduling
- > Does It Really Say That?:
Contract Interpretation
- > Communicating with Management

WHAT IS A COLLECTIVE AGREEMENT?

A collective agreement is a legal contract typically between a union and an employer that sets out the rights and obligations of the parties. Collective agreements generally cover wages, hours, and working conditions.

Structure of a Collective Agreement

Cover

The front page of a collective agreement identifies the parties to the agreement as well as the term of the agreement.

Articles

Sections of collective agreements are called *articles*. Collective agreements are cited by article and clause numbers rather than by page numbers.

Table of Contents

Collective agreements contain a table of contents, which is a list of articles in numerical order. Some agreements may contain an alphabetical table of contents as well, which lists articles alphabetically by title.

Letters of Understanding (LOUs)

If a collective agreement contains LOUs, they are typically found near the end. LOUs can have more flexibility than the main body of the collective agreement because they can include expiration dates, are easier to remove from the agreement, and can be negotiated at any time, not just during bargaining. However, LOUs are generally as enforceable as the main body of the agreement.

Index

Many collective agreements have an index at the back where the topics covered in the agreement are listed alphabetically.

Collective Agreement Staples

In Alberta, there are four components that almost all collective agreements contain:

Management Rights

- > Typically reserves all rights to the employer that are not specifically restricted or abrogated by terms of the collective agreement.
- > Union acknowledges the exclusive right of Employer to operate and manage its business.

Union Recognition

- > Establishes the Union as the sole bargaining agent.
- > Often identifies the bargaining unit as described by the Alberta Labour Relations Board.
- > Limits employees from making individual agreements that conflict with the collective agreement.

Dispute Resolution Process

- > The process the parties can utilize to resolve issues.
- > Typically includes a grievance process and arbitration process.
- > May include other processes such as mediation or expedited arbitration.

No Strike/No Lockout

During the life of the collective agreement:

- > The union cannot go on strike.
- > The employer cannot lock employees out.

– reading a – COLLECTIVE AGREEMENT



1

Words are given their normal or ordinary meaning.

Words should be given their normal or ordinary meaning. The everyday meaning is given the most weight, and arbitrators do not want to look for meaning outside of the ordinary meaning.

2

All words have meaning.

It is presumed that all words used, including headings, were intended to have some meaning. An interpretation that requires you to avoid words or sections is usually incorrect.

3

The same words should be given the same meaning, & different words should be given different meanings.

Where the same word is used twice, it is presumed to have the same meaning. Different words are presumed to have different meanings.

4

The collective agreement must be read as a whole.

An interpretation in one article should not cause another provision to be meaningless or absurd. Words should be read in the context of the sentence, section, and entire agreement.

5

The specific overrides the general.

When reading a collective agreement, make sure to look for any other language that might be more specific. For example, specific provisions modifying vacation entitlement for casual employees prevail over the general language on vacation entitlement.

6

Watch for ambiguous language.

Words or phrases that are subjective or ambiguous can have a range of possible effects. Watch for words and phrases such as “meaningful discussion,” “reasonable,” “endeavour,” or “consult.”

7

Know the difference between “must,” “shall,” & “may.”

MUST –
Always mandatory

SHALL OR WILL
– Mandatory in most instances

MAY – Discretionary and permissive

8

What is written is what was intended.

It’s presumed the parties intended what they said, though the interpretation should be informed by the provision’s purpose and surrounding circumstances. Only where there is an ambiguity in the language can bargaining history be examined, and the history must reveal a mutual understanding of the provision.

OTHER INTERPRETIVE PRINCIPLES

Subordinating & Superordinating

Subordinating language (“subject to”) or superordinating language (“notwithstanding” or “despite”) shows which provision prevails in the event of a conflict. However, it does not necessarily mean there will be a conflict in every circumstance.

Inclusion & Exclusion

Expressio unius est exclusio alterius

“The expression of one thing is the exclusion of others.” An express reference to one matter presumes the exclusion of other matters.

Exhaustive & Non-Exhaustive Lists

“For example,” “E.g.,” and the verb “include” introduce examples, not an exhaustive list. However, “i.e.” restates what has been said and is exhaustive.

Conjunctive & Disjunctive Lists

“And” is conjunctive, meaning it combines things. Conversely, “or” is generally disjunctive, meaning it separates things.

Ejusdem Generis

“Of the same class.” Where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned.

ACTIVITY – TRIVIA

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

APPLYING THE COLLECTIVE AGREEMENT

Step 1

What is the right?

What is the right regarding? For example, is it a right about vacation entitlement, or is it about vacation scheduling?

Step 2

Who owns the right?

Most rights in a collective agreement are owned by the employee. Some are owned by the union and some by the employer.

Step 3

What conditions need to be satisfied?

Many rights in a collective agreement have criteria or requirements that must be met before the right is applicable, such as a timeline, a specific type or length of employment, or a request that must be made in a particular manner.

Step 4

What obligation must be met?

What must happen in order to satisfy the collective agreement? What must happen in order to avoid a grievance?

ACTIVITY - 4 STEPS

ARTICLE(S)			
WHAT IS THE RIGHT?			
WHO OWNS THE RIGHT?			
WHAT CONDITIONS NEED TO BE SATISFIED?			
WHAT OBLIGATION MUST BE MET?			

ACTIVITY – SCENARIOS





EMPOWERING LEADERS

2024 UNA
LABOUR SCHOOL

CONTACTS

PROVINCIAL OFFICE
(Edmonton)

☎ **780-425-1025/1-800-252-9394**



www.una.ca

SOUTHERN ALBERTA
REGIONAL OFFICE
(Calgary)

☎ **403-237-2377/1-800-661-1802**



education.una.ca

✉ nurses@una.ca



[education.una.ca/
labourschool/](http://education.una.ca/labourschool/)