

CONTRACT INTERPRETATION MANUAL

Article 4 UNION RECOGNITION

Interpretation Guidelines

Article 4.01 – Union Recognition

The Unions who are part of the Nurses' Bargaining Association (NBA) are the exclusive bargaining agents for all employees working in Provincial Collective Agreement (PCA) worksites who are included in the bargaining unit. That means that the Employer cannot negotiate terms and conditions of employment with individual nurses without the involvement of the Union.

Individual agreements are not recognized as legitimate agreements. An example of an individual agreement is where an Employer gives a position to a employee without going through the proper posting and selection procedure.

Article 4.02 – Scope of the Agreement

The PCA applies to employees who belong to any of the Unions (e.g. BCNU, and HSA) who are part of the NBA.

The Labour Relations Code sets out the following definition of people who are excluded from Union membership:

1. A person who performs the functions of a manager or superintendent; or
2. A person who is employed in a confidential capacity in matters relating to labour relations or personnel.

The Labour Relations Board (LRB) considers the employee's role in carrying out the following duties as factors in deciding whether a person is functioning as a manager:

1. Discipline and discharge;
2. Labour relations input;
3. Hiring, promotion and demotion.

Each case is decided on its own facts and the Employer must prove the excluded managers are performing the managerial functions that may be set out in their job description. Typically, exclusion disputes arise in new certifications and where the Employer creates new positions.

Please contact your Steward or LRO if you have any questions or concerns about whether an existing or new position should be within the bargaining unit.

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Additional Resources

Legislation

1. Labour Relations Code – Section 1 (definition of bargaining agent, employee and employer), Section 48 (Parties bound by a collective agreement), Section 49 (Terms of collective agreement to be carried out), Section 139 (Jurisdiction of the Board to decide certain questions).

LRB Decision

1. Highland Valley Copper (BCLRB No: 289/98) - This decision informed the Board's policy on managerial exclusions and supervisory units.

Footnotes

Article	4
Sub-Article	4.01, 4.02
Last Update	31-03-21
Related Articles	1, 6, Appendix CC