

# CONTRACT INTERPRETATION MANUAL

## INTRODUCTION

E&OE

### This Manual is for You

The BC Nurses' Union takes pride in educating members and providing a variety of resources that we hope will enable BCNU Stewards and Members to fully utilize the rights and benefits of the Provincial Collective Agreement (PCA).

### How to Use It

This manual has been created with the goal of containing as much information as possible to assist both Stewards and Labour Relations Officers (LRO). As a result it is a big document. The good news is that you can also access the Contract Interpretation Manual through the BCNU website, [www.bcnu.org](http://www.bcnu.org).

This manual contains current Union interpretation of individual Articles of the PCA as well as references to other resources, including leading Arbitration cases applicable to the particular Article.

### Key Points to Remember When Using this Manual

When checking the manual for an interpretation collect a few relevant facts about the issue first (e.g. employee status, is the member regular full time, regular parttime or casual).

Check and review the full PCA to determine if there are other articles which may directly impact each other and are always worth reading as they increase understanding. Arbitrators often say that articles have to be read in context with other provisions of the PCA.

Read the entire article, it is a common error to read only the paragraph or phrase related to an issue (managers often read only selected parts of an article, resulting in misunderstanding, the interpretation of the language).

Keep in mind a collective agreement is a document created between the Employers and the union to facilitate and improve employment relationships.

Read the definitions in Article 1. Managers and BCNU members often overlook article 1.02 of the PCA, these definitions clarify terms such as "definition of a day" that has been misunderstood in the past.

Don't forget to check the many appendices and memoranda at the back of the PCA. You will find information regarding LTD, Pension, Enhanced Disability Management Program, and many memoranda that may impact the provisions in the main part of the PCA.

As you will have noticed this is a very big document, so if you should stop being a BCNU Steward, please pass along the resource to the Steward taking your place.

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## Become Familiar with the PCA

The PCA is intended to reflect the understanding reached at the bargaining table through negotiations.

Keep in mind that the Purpose of the Agreement as set out in Article 2 is "...to maintain a harmonious and mutually beneficial relationship between the Employer and employees...":

Grievances arise because:

1. Sometimes negotiators fail to agree on language which accurately reflects the intent of the parties;
2. Sometimes arbitrators or government impose language and as a result the Employer and the Union have a different understanding of the intended meaning (e.g. Article 27.05 (B) (3) Overtime for RPT employees was legislated language;
3. Sometimes language is changed in one part of the PCA and that change is not reflected in the other Articles which may be impacted by the changed language; or
4. Sometimes the Employer and the Union have totally opposing views on both the intent and the meaning of the provisions in question.

When reading the collective agreement articles it is helpful to ask yourself questions such as the following:

1. What was the Union trying to achieve while negotiating the language?
2. Where is the subject index?
3. What is in the Appendices?
4. What is the difference between the scheduling provisions in Article 25 for programs that run 24/7 and those programs that are Monday to Friday day shift only?
5. How is a community based service defined?
6. Where in the PCA is there language specific to community based service?

The PCA is a living document that grows and changes with each new set of bargaining and arbitration decisions.

Become familiar with the whole contract. While a clause may seem perfectly clear, its meaning may be altered considerably when read in conjunction with another clause.

## Ways to Improve Our Knowledge of the Contract

1. Consult it often;
2. Keep a copy handy at work;
3. Don't rely on the speculation of others, always look it up;
4. Don't rely on recollection, always look it up, reading a provision with fresh eyes each time a new situation comes up;
5. Use the precise terms used by the PCA when describing what it says;
6. Thoroughly familiarize yourself with the table of contents and always use the table of contents to find what you're looking for;
7. Get to know where provisions are located (i.e. within each section & Article);
8. When looking something up, read the entire Article;
9. When the revised CA is received, carefully review all the changes; and

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10. Read entire sections from time to time.

## The Rules of Construction

The following are general rules that are often used by Arbitrators as an aid in interpreting PCA language, particularly when the meaning isn't clear on a plain reading of the language:

1. All words used in the PCA are intended to have meaning;
2. The words of the disputed provision should be interpreted in the sentence, section and agreement as a whole;
3. Language differences between two provisions must be presumed to be meaningful; and
4. Where a dispute involves a monetary benefit the Union bears the onus to prove that clear language confers the benefit.

In a dispute, Arbitrators typically attempt to determine what the negotiating parties' mutually intended when they agreed to the language in the disputed provision.

Where an Arbitrator entertains a bona fide doubt about the parties' mutual intention, the Arbitrator is entitled to consider extrinsic evidence such as negotiating history, including discussions at the bargaining table and the past practice.

## Five Steps of Contract Interpretation

Article

1. What right does this article provide?
2. Whose right is it?
  - (a) Employees;
  - (b) Employer;
  - (c) Union; or
  - (d) Steward
3. What conditions must be met for the right to take effect?
4. How do you "show" you have met the conditions? What resources are useful to assist your interpretation and strategy for dealing with the issue?
5. What other Articles, legislation, regulations, or policies affect the implementation of this Article?

Article 6.04(D) Conditions Governing Stewards

1. What right does the article provide?
  - (a) Of stewards to perform the duties and responsibilities of stewards.
2. Whose right is it?
  - (a) Employees;
  - (b) Employer;
  - (c) Union; or
  - (d) Steward.
3. What conditions must be met for the right to take effect?

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- (a) The work must fall within the duties outlined in 6.04(C) and other related articles;
  - (b) Steward must receive prior consent from their supervisor;
  - (c) Steward must make every endeavour to complete business in as short a time as possible;
  - (d) Stewards must advise their supervisor of their return; and
  - (e) Stewards shall not interrupt the normal operations of the worksite.
4. How do you “show” you have met the conditions?
    - (a) Steward Log;
    - (b) Calendar; and
    - (c) Grievance file and notes.
  5. What resources are useful to assist your interpretation and strategy for dealing with the issue?
    - (a) Proof of past practice;
    - (b) Examples of how union leave is dealt with at other worksites in your Health Authority; and
    - (c) Arbitrations on the issue.
  6. What other Articles, legislation, regulations or policies affect the implementation of the Article?
    - (a) Article 6.04 (A) and (B) – Recognition of Stewards;
    - (b) Article 6.04 (C) - Duties and Responsibilities;
    - (c) Article 6.09 – New Employees;
    - (d) Article 8 – Union/Management Committee;
    - (e) Article 9 – Grievances;
    - (f) Article 15.04 – Employer Terminations;
    - (g) Article 16 - Employee Evaluation; and
    - (h) Article 31.01 – Joint OH&S Committee.

### Article: 6.04 (C) Stewards – Duties & Responsibilities

1. What right does this article provide?
  - (a) Stewards to do Union work while on duty
2. Whose right is it?
  - (a) Employer;
  - (b) Employee;
  - (c) Union; or
  - (d) Steward
3. What conditions must be met for the right to take effect?
  - (a) Duties include;
    - i. Investigating urgent complaints;
    - ii. Investigating grievances;
    - iii. Assisting employees in preparing and presenting grievances;
    - iv. Supervising the ballot box during a ratification vote;
    - v. Attending meetings called by management;
    - vi. Accompanying members to meetings with management where there might be discipline;
    - vii. Meeting and orienting new members;
    - viii. Sitting on union/management committee; and
    - ix. Accompanying an employee, at their request, at a respectful workplace meeting.

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4. How do you “show” you’ve met the conditions? What resources are useful to assist your interpretation and strategy for dealing with the issue?
  - (a) Proof and description of your activities (e.g., steward log, calendar, union notices, etc.).
5. What resources are useful to assist your interpretation and strategy for dealing with the issue?
  - (a) Proof of past practice;
  - (b) Examples of how union leave is dealt with at other worksites in your Health Authority; and
  - (c) Arbitrations on the issue
6. What other Articles, legislation, regulations and policies affect the implementation of the article?
  - (a) Article 6.04(D) – Conditions Governing Stewards;
  - (b) Article 6.07 – Personnel File;
  - (c) Article 8 – Union/Management Committee;
  - (d) Article 9 – Grievances;
  - (e) Article 15.04 – Employer Terminations;
  - (f) Article 32 – Occupational Health & Safety; and
  - (g) Article 59 – Profession Responsibility Clause.

### Acronym List

Acronym	Definition
LRO	Labour Relations Officer
VCHA	Vancouver Coastal Health Authority
HEABC	Health Employers Association of British Columbia
BCGEU	British Columbia Government Employees Union
OT	Overtime
IHA	Interior Health Authority
HEU	Hospital Employees' Union
NBA	Nurses Bargaining Association
PCA	Provincial Collective Agreement
HSA	Health Sciences Association
LRB	Labour Relations Board
BCCNM	British Columbia College of Nurses and Midwives
LEAP	Licensing, Education, Advocacy, and Practice
FTE	Full Time Equivalent
BCLRB	British Columbia Labour Relations Board
CUPE	Canadian Union of Public Employees
BUS	Building Union Strength
SUD	Substance Use Disorder
FOIPPA	Freedom of Information and Protection of Privacy Act
PIPA	Personal Information Protection Act

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BCFED	British Columbia Federation of Labour
U/M	Union Management Committee
BCHOA	British Columbia Healthcare Office of Arbitration
SEPD	Single Employer Policy Dispute
IWAD	Industry Wide Application Dispute
GAC	Grievance Assessment Committee
RFT	Regular Full Time
RPT	Regular Part Time
CAB	Casual Availability Bonus
WSBC	WorkSafeBC
LTD	Long Term Disability
LTC	Long Term Care
E&OE	Errors and Omissions Excepted
ESA	Employment Standards Act
DTA	Duty to Accommodate
JOH&S	Joint Occupational Health and Safety
EI	Employment Insurance
FIPPA	Freedom of Information and Protection of Privacy Act
PIPA	Personal Information and Protection Act
OFA	Occupational Functional Assessments
CPP	Canada Pension Plan
WCA	Workers' Compensation Act
AWP	Attendance Wellness Programs
EDMP	Enhanced Disability Management Program
HR	Human Resources
DM	Disability Management
MPP	Municipal Pension Plan
PSPP	Public Service Pension Plan
CHSS	Community Health Services Societies
CMP	Case Management Plan
GRTW	Graduated Return to Work
FBA	Facilities Bargaining Association
CBA	Community Bargaining Association
LPN	Licensed Practical Nurse

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## Footnotes

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Last Update	31-03-21
Related Articles	