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November 10, 2020

*(via e-mail only)*

Debra Shackett, County Administrator  
Belknap County Complex  
34 County Drive  
Laconia, NH 03246

**Re: Incentive Policy**

Dear Administrator Shackett,

Thank you for forwarding to me Representative Sylvia's thoughtful comments dated November 2<sup>nd</sup> relating to the above matter. As I understand it, there are still two issues under discussion at this time in reference to the adoption and implementation of the policy. The first of these is distinctly stated in the November 2<sup>nd</sup> correspondence as "How could a county policy become effective three days before the commissions (sic) took a vote?"

Referring to the policy itself and apparently the document that was actually reviewed by the Commission before the ratification vote was taken, in the line immediately below the heading it states "Effective 8/14/2020 – as long as it's a full-time benefit". Consequently, it is apparent from the document itself that the intended effective date was August 14<sup>th</sup> of this year. Where the vote was taken on August 17, and the Commissioners had the availability of this document, the only conclusion that I am able to reach is that the Commission intended to adopt the policy with a retroactive date of August 14. I am not aware of any statute, case law or other legal principle which would prevent the Commission from adopting and applying it with a three-day retroactive period. It is a particularly common practice in reference to labor conditions and benefits that at times a variety of benefits are applied retroactively whether it be in reference to wages, healthcare payments or other forms of remuneration.

The second issue that seems to still be of concern is whether or not there was some form of improper communication outside of a duly noticed meeting among the Commissioners on this issue prior to the vote. As I understand the situation (and as I understood it when I drafted my prior correspondence), your office forwarded the policy to the Commissioners individually on the morning of August 17<sup>th</sup> and the Commissioners each responded to you individually without copying one another on their responses or otherwise communicating with one another on this issue prior to the meeting later that evening. This being the case, there does not appear to be any form of communication that was illegal or improper in connection with this matter.

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PORTSMOUTH

Debra Shackett, County Administrator

**Re: Incentive Policy**

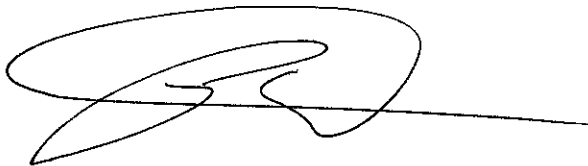
November 10, 2020

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After this additional review and considering the input from Representative Sylvia, my earlier conclusion that the policy was legally adopted has not been altered.

Thank you for your attention to this matter.

Sincerely,

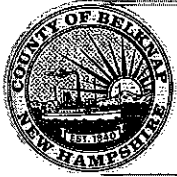
A handwritten signature in black ink, appearing to read "Paul T. Fitzgerald", with a long horizontal line extending to the right.

Paul T. Fitzgerald

PTF/src

**CONFIDENTIALITY STATEMENT**

This is a confidential communication between attorney and client and is not to be considered part of any public record; nor is it to be divulged to the public without the prior written consent of the client.



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## **BELKNAP COUNTY INTEROFFICE MEMO**

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Part Time and Registry Nursing Employees

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### INCENTIVE TO WORK AN UNSCHEDULED DOUBLE SHIFT

Effective 8/14/2020 – as long as the policy remains a full-time benefit

In order to reduce the burden on our full-time staff and to recognize the inconvenience of staying for an unscheduled shift, the County will pay a stipend of \$50 to any part-time or registry nursing staff who agree to stay and work an additional shift when asked.

This is a voluntary opportunity, and not a mandate. If you are able & willing to help in this way when needed, the County will pay an additional \$50 for the inconvenience.