

NYU Legal Center to Assist State AGs in Battling Trump Rollbacks

New York University Law School recently established the State Energy and Environmental Impact Center, which will assist state attorneys general in their work on environmental, clean energy, and climate laws and policies. In an interview, the new center's executive director, David J. Hayes, who has had a distinguished career in private practice and as deputy interior secretary under two presidents, responded to questions about the center's work.

We first asked Hayes to outline the center's principal goals.

"The center was established to assist state AGs' response to attempted rollbacks of environmental protections and political leaders' attempts to undermine climate change and clean energy initiatives," he said. The AGs "are well positioned to call on the rule of law and the courts to protect and advance environmental, conservation, and clean energy values."

Hayes continued to express how "our goal is to expand the capabilities of AGs to handle matters they are committed to but do not have the resources to work on, including region-specific issues." Unfortunately, even with the center's support, "AGs probably will not have enough resources, because of the surprising — and disappointing — assault we are seeing on environmental, climate, and clean energy values."

Given the context, we asked how the center will provide support.

"The AGs already are active and have had early successes in the courts on key environmental issues," Hayes said. "The center will work closely with AG offices to identify additional legal and policy needs and opportunities, through the full-time lawyers and communications director in the cen-

ter and a number of NYU law fellows serving in AG offices."

The NYU law fellows will be experienced attorneys who will serve two-year stints with individual AG offices, Hayes continued. "The AGs will bring the law fellows on board to work on clean energy, climate, and environmental issues. Once on board, they will work directly for their AGs, while also enhancing on-going collaborations among AG offices and with the center."

Hayes anticipates that collaboration among the center and the individual offices "will grow organically, as we provide support in various ways. We expect that the center will complement coordination efforts already underway among AGs."

The center also intends to line up pro bono resources for AGs and provide a clearinghouse of sorts to bring additional legal resources to the table for interested attorneys general.

Hayes said that the center "certainly will focus on specific cases, but we also want to use our communications resources to provide a broader narrative that pertains to the entire field. In the litigation context, the focus necessarily is on a particular case, and the overall sweep of what is going on can get lost. We hope that center staff can serve as effective spokespersons on broader points advanced by individual cases."

Hayes admits that "as a personal matter, my interests are eclectic, but I have a special passion for advancing clean energy and climate-related interests. I find the antipathy of the Trump administration to clean energy and climate change profoundly disturbing. Our ability to mitigate climate change is dependent on transformation of our energy sector."

In addition, as Hurricanes Harvey,



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Irma, Jose, and Maria remind us, acknowledging and taking steps to adapt to climate change-related sea-level rise, storm surge, and more frequent extreme storms must be a national priority, Hayes says. "AGs can help draw attention to the dangers of climate denial and the need to prepare and invest smartly in infrastructure."

For example, President Trump stopped a Homeland Security rule-making that would have required taking climate change into account when rebuilding after floods. "There was a compelling administrative record, but they stopped the rule in its tracks." Policies can be changed, of course, Hayes says, but "it is fundamental to the rule of law and the Administrative Procedure Act that the changes are based on facts and science — and on the record developed."

Hayes finished our conversation by noting that "the center is non-partisan, but we are unabashedly progressive in our positions on environment, clean energy, and climate. We welcome involvement across the political spectrum."

"I am hopeful that today's situation is an aberration. I am also hopeful that the center's work can change the dynamic, and that we can find a safe place for politicians and the public from all parts of the political spectrum to come together around these traditional American values of protecting the environment and preserving our fabulous resources for generations to follow."