

THOMAS J. DONOVAN, JR.  
ATTORNEY GENERAL

JOSHUA R. DIAMOND  
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN  
CHIEF ASST. ATTORNEY GENERAL



STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

TEL: (802) 828-3171  
FAX: (802) 828-3187

<http://www.ago.vermont.gov>

February 8, 2019

VIA ELECTRONIC MAIL

Matthew D. Hardin  
Executive Director  
Energy Policy Advocates  
matthewdhardin@gmail.com

*Re: Public Records Request*

Dear Mr. Hardin:

I write in response to your public records request made pursuant to Vermont's Public Records Act, 1 V.S.A. §§ 315-320, dated February 5, 2019. In that request, you generally seek "all opinions, analyses, and/or determinations" concluding that: (i) the Attorney General's Office has the legal authority to hire or otherwise bring into the Office an NYU Fellow or privately funded attorney; (ii) a Special Assistant Attorney General, or anything else provided by NYU, is or is not an impermissible gift; and (iii) a Special Assistant Attorney General, or anything else provided by NYU, does or does not comply with ethical, professional conduct, or anti-corruption law or codes. You also seek "correspondence with the state's Joint Fiscal Office" related to "an NYU-employed attorney" in the Office.

The Attorney General's Office has conducted a search and has identified the attached document, which was provided to you on December 27, 2018, as responsive to your request. If you feel information or records have been withheld in error, you may appeal to Deputy Attorney General Joshua Diamond.

Sincerely,

  
Laura B. Murphy  
Assistant Attorney General

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September 15, 2017

*By electronic mail*

David J. Hayes, Executive Director  
State Energy & Environmental  
Impact Center at the NYU School of Law  
[stateimpactcenter@nyu.edu](mailto:stateimpactcenter@nyu.edu)

*Re: Application for NYU Fellow*

Dear Mr. Hayes:

Please accept this letter of interest as the Vermont Attorney General's Office's application for consideration of hiring a New York University (NYU) School of Law Fellow. Below please find the information requested as a part of the application materials.

**1. Program Eligibility and Narrative**

The Environmental Protection Division of the Vermont Attorney General's Office is one of six major divisions within the Attorney General's Office. The Chief of the Environmental Protection Division supervises the Division's Assistant Attorneys General (AAGs) and staff. The Chief is directly answerable to the Attorney General.

The Environmental Protection Division litigates environmental, agricultural, and natural resource cases of statewide importance. The Division files civil actions to enforce Vermont's environmental and agricultural laws, defends the State of Vermont and its agencies when they are sued over environmental matters and handles appeals of decisions from the Vermont Environmental Court, the Superior Courts (Civil Division), and administrative bodies involving environmental, agricultural, and natural resource issues, such as toxic waste, solid waste violations, water and air quality standards, violations of required agricultural practices, and non-compliance with land use regulation. The Division coordinates with the Office's Criminal Division on the prosecution of environmental crimes. The Division also provides legal services, advice and counsel on environmental and other matters to the Vermont Agency of Natural Resources, the Vermont Agency of

Agriculture, Food and Markets, the Vermont Natural Resources Board, and other state agencies.

Currently, including the Chief of the Division, the Environmental Protection Division includes: 8 and ½ AAGs (one AAG splits his work between the Environmental Protection Division and the Public Protection Division), 1 investigator and 1 paralegal/administrative assistant. The investigator and paralegal/administrative assistant are both half-time positions, i.e. the Division shares them with another unit of the Office. Two of the AAGs in the Division are responsible for providing legal services to the Vermont Agency of Agriculture, Food and Markets.

In the last year, the Division has been very busy with Vermont-specific matters, such as the state's response to PFOA contamination in the southwestern Vermont town of Bennington, and litigation, on the state and federal level, around the proposed sale of the state's only nuclear power plant, Vermont Yankee. The Division has also handled a steady flow of enforcement referrals from the Vermont Agency of Natural Resources. In addition, the Division's multi-state work has been as active as it has ever been, highlighted by Vermont being a part of the Volkswagen multi-state litigation over Volkswagen's use of defeat devices on certain vehicles.

The Environmental Protection Division is relatively small when compared to other divisions within the Vermont Attorney General's Office and similar environmental units in other states. The Division AAGs maintain a steady flow of casework.

Having a NYU Fellow join the Division would provide needed assistance to AAGs on particularly complex matters. Further, a NYU Fellow could play a role in the monitoring of multi-state issues. Vermont has been very active in multi-state actions – statements, comments on rules, and litigation – in reaction to issues involving the environment and climate change. One AAG in the Division is, in addition to his own heavy caseload, responsible for being the Office's point of contact for multi-state issues and topics of environmental interest. Assistance here would be welcomed. Additionally, the Division has actively tried to build and maintain relationships with Vermont-based non-governmental organizations (NGOs) around some of these multi-state topics and a NYU Fellow might be of assistance here. Finally, depending on the NYU Fellow's experience, a regular caseload could be assigned to him or her.

## **2. Program Structure**

Environmental protection has become one of the cornerstone foundations for the Vermont Attorney General since he took office in January. Many of the environmental issues and concerns that have presented in the multi-state area

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could not have been anticipated at this time last year. Strengthening the Environmental Protection Division by having a NYU Fellow join the Division would be a great help in advancing the Attorney General's environmental protection agenda. Adding a member to the Division without cost to the state's general fund would make the benefit to Vermont even greater.

Within the Division, a NYU Fellow would report to the Division Chief as if he or she were a regular staff AAG. The NYU Fellow would be expected to be self-sufficient and would be afforded room to work independently on assigned cases. Significant decisions on litigation, joining a multi-state, etc. would be run through the Division Chief up to the Deputy Attorney General and Attorney General for approval.

### **3. Budget Proposal and Confirmation of Authority**

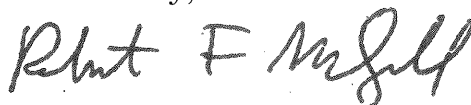
With respect to identification of a proposed salary range for the NYU Fellow (working as a Special AAG), if the individual were being hired as a full-time staff here at the Vermont Attorney General's Office, the range of salaries would run – on average – from \$60,000 (5 years' legal experience) to \$75,000 (10 years' legal experience). A salary in these ranges, depending on the number of years' experience, would place the NYU Fellow in the same pay range as existing AAGs with 5 to 10 years' experience. Salary equity is of great importance in our Office and hiring to an equal range as their peers would be expected.

The Office of the Attorney General has the authority to have an "employee" paid for by an outside source. This model is not uncommon for state government. Depending on the structure of the NYU Fellow program, approval from the state's Joint Fiscal Office may also be required before commencing.

Thank you for your consideration of the Vermont Attorney General's Office's application for a NYU Fellow. I would be happy to discuss our Office's interest further, and would be happy to answer any questions you may have about our Office, the Environmental Protection Division or our environmental protection work.

I look forward to hearing more about the NYU Fellow program.

Sincerely,



Robert F. McDougall  
Assistant Attorney General  
Chief of the Environmental Protection Division