

**From:** Schimsa, Rebecca <RebeccaSchimsa@gov.sc.gov>  
**To:** Smith, Austin <AustinSmith@gov.sc.gov>  
**CC:** Pisarik, Holly <HollyPisarik@gov.sc.gov>  
Philpott, Katie <KatiePhilpott@gov.sc.gov>  
**Date:** 6/13/2016 10:24:54 AM  
**Subject:** Holdover Status for Pat Maley

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Austin – FYI re. Pat Maley in holdover status:

**Question:** Does Pat Maley retain the Office of Inspector General if the Senate does not confirm his reappointment by the end of Sine Die?

**Answer:** Yes, Pat Maley would remain Inspector General, serving in holdover status, until his successor is appointed and qualifies.

Pursuant to Section 1-6-20(C), the Inspector General is appointed by the Governor with the advice and consent of the Senate for a term of four years and may be reappointed by the Governor for additional terms. Further, Section 1-6-20(D)(1) provides that the Inspector General may be removed from office only by the Governor.

The Supreme Court has held that “holdovers” are entitled to retain their status: In the absence of a statutory or constitutional provision, public offices hold over de facto until their successors are appointed or elected and qualify – nature abhors a void; there should be no lapse in government. (Bradford v. Byrnes (1952))

Although some offices are statutorily limited from holdover status (e.g. DOT Commissioners), an Attorney General’s Opinion (2003) has held that where no statute authorizing an officer to hold over is present, that officer serves in a de facto capacity. An officer de facto is in contrast to an officer de jure who is in all respects legally appointed or elected and has qualified to exercise the duties of that office. A de facto officer is in possession of an office in good faith, entered by right, claiming to be entitled thereto, and discharges its duties under color of authority.

Rebecca S. Schimsa  
Deputy Legal Counsel  
Office of Governor Nikki R. Haley  
O: 803-734-6068 | C: 803-429-4561

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