

**Department of Human Resources
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Compliance with Government Code section 12439 – Vacant Positions	REFERENCE NUMBER: 2014 - 011
DATE ISSUED: 05/16/14	SUPERSEDES:

This memorandum should be forwarded to:

**Agency Secretaries
Department Directors
Department Chief Deputy Directors
Deputy Directors of Administration
Budget Officers
Personnel Officers
Employee Relations Officers**

FROM: Department of Human Resources

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Under Government Code section 12439(a) “any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller.” Subdivisions (b) and (c) of this statute identify criteria by which the Director of Finance or the Controller may reestablish previously abolished positions, but subdivision (h) forbids personnel transactions “for the purpose of circumventing the provisions of [section 12439].”

The purpose of this PML is to remind state agencies that they must adhere to and maintain strict compliance with section 12439.

The Department of Finance’s Office of State Audits and Evaluations will begin a targeted audit to determine the current level of compliance with section 12439 and to assess the effectiveness of the law.

Personnel and budget chiefs should review the following resources with staff to ensure compliance with section 12439.

Online Resources

- [State Administrative Manual](#), Budgeting Section 6000, Vacant Positions Report 6445.
- [State Controller’s Office Payroll Letter #02-037](#) dated December 16, 2002.
- [State Controller’s Office Personnel Payroll Manual](#), Section C, reports C504 and C505.
- [Available ViewDirect Reports](#).

Tracking Reports

Agencies may access the following reports on ViewDirect, via the Controller's online reporting system, to view probable and abolished vacant position reports:

- PCFY0403 – PROBABLE VACANT POSITION REPORT – Generated annually and available the first business day in April and retained for two years.
- PCFY0404 – ABOLISHED VACANT POSITION REPORT – Generated annually and available the first business day in July and retained for two years.

Agencies utilizing the California Leave Accounting System, may access the following reports on ViewDirect, via the Controller's online reporting system, to view established position and potential vacancy reports:

- PDV1105 – Established Positions with No Expenditures for 6 Months or More by Facility and Position Number
- PDV1106 – Established Positions with No Expenditures for 6 Months or More Department – Summary by Facility
- PDV1107 – Established Positions with No Expenditures for 3, 4 or 5 Months by Facility and Position Number
- PDV1108 – Established Positions with No Expenditures for 3, 4 or 5 Months – Department Summary by Facility

Agencies utilizing the Management Information Retrieval System (MIRS), via the Controller's online reporting system, may create a report or use the following reports from the MIRS Common Library:

- POS005 – Report that displays positions where expenditures have not been charged to a position for 6 months or more in a fiscal year.
- POS006 – Report that displays a summary of the number of positions where expenditures have not been charged to a position for 6 months or more in a fiscal year.
- POS007 – Report that displays positions where expenditures have not been charged to that position for 3, 4 or 5 months prior to the date the file was updated.
- POS008 – Report that displays a summary of the number of positions where expenditures have not been charged to a position for 3, 4, or 5 months prior to the date the file was updated.

Agencies that do not use the Controller's online reporting systems shall maintain methods to track position vacancies in order to comply with section 12439.

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For questions related to this PML, personnel office liaisons should contact the Department of Human Resources' Personnel Services Branch by emailing questions to psb@calhr.ca.gov or calling (916) 323-3343.

/s/Richard Gillihan

Richard Gillihan
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