

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT

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ADDRESS REPLY TO:
P.O. BOX 603
San Francisco, CA 94101

January 14, 1987

IN REPLY REFER TO:

Ms. Barbara A. Leininger
Staff Attorney
Control Data
8100 34th Avenue South
Box O
Minneapolis, MN 55440

Dear Ms. Leininger:

This is in reply to your letter of December 19, 1986, requesting a review of your firm's vacation policy in relation to the recent California Supreme Court decision, Suastez vs Plastic Dress Up.

Your Personal Days Off (PDO) policy in effect permits employees to convert any or all of their PDO to vacation. Therefore, we would consider all PDO time to be subject to the Suastez decision and our Interpretive Bulletin 86-3.

As PDO is subject to the Suastez decision, at the end of calendar year any reduction of unused PDO to a fixed amount would be violative of the Suastez decision as the Suastez decision prohibits forfeitures.

If your policy includes a provision permitting the employee to cash out any unused PDO in order to meet maximum balances required by the policy, there would be no violation.

Requiring any employee to accept cash for unused vacation would not be considered a "use it or lose it" condition. The next to last paragraph of your letter indicates that cashing out of vacation during the year is permissible in order to stay within maximum levels.

I hope this is responsive to your questions; if not, please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lloyd W. Aubry, Jr.", written over the typed name.

Lloyd W. Aubry, Jr.
State Labor Commissioner

1987.01.14-1