

Federal Retreat, California Resolve

*Emotional Support Animals
After HUD's Policy Reversal*

Housekeeping

This is a Zoom Webinar

- All attendees are muted, and cameras are turned off.
- If there is enough time, we will take questions at the end.

Live Captioning is Available

- Select “Show Captions” in the Zoom meeting control bar to enable captions, and to view the full transcript. There is a drop down menu to choose English or Spanish language.
- Or, to get the captions in a web browser, go this link bit.ly/DREDF-CART, which will also be dropped in the Chat.

Please use the Q&A or reach out to Drew McKay, by email at dmckay@dredf.org with any questions and/or comments.

Presenters

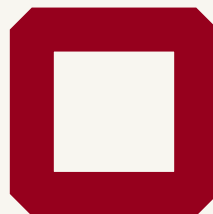
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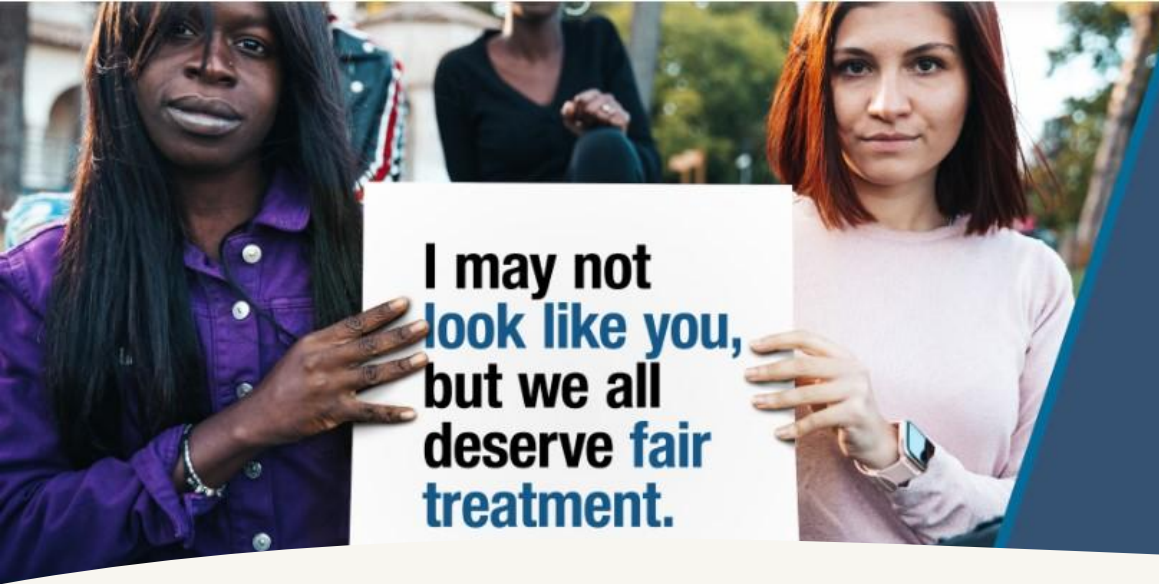
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Disability Rights Education & Defense Fund **DREDF**

- DREDF is a national cross-disability law and policy center founded in 1979 as a unique alliance of disabled adults and parents of children with disabilities who were leaders in the disability rights and independent living movements.
- DREDF's mission is to advance and defend the civil and human rights of people with disabilities through legal advocacy, training, education, and public policy.
- DREDF focuses its work on issues in which disability, poverty, race, ethnicity, gender, immigration status, and LGBTQI+ status intersect, and operates in a manner consistent with core principles of equality of opportunity, disability accommodation, accessibility, and inclusion.



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for everyone.**

CALCIVILRIGHTS.CA.GOV

Protect the people of California from unlawful discrimination in employment, housing, and public accommodations, and from hate violence and human trafficking.

Civil Rights Department (CRD) disclaimer

This guidance is for informational purposes only, does not establish substantive policy or rights, and does not constitute legal advice.

This information is based on the most recent guidance as of the date of this training. It is the responsibility of the attendee to be aware of changing guidance and laws.

The opinions expressed by the other presenters do not necessarily reflect the opinions of CRD.

Topics & Learning Outcomes

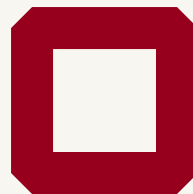


- Level set: service animals v. ESAs.
- Explain HUD's May 22, 2026 and its impact.
- Identify the remedies that still remain for assistance animal users.





Level Set



Obligations Under the Fair Housing Act

- The Fair Housing Act (FHA) makes it unlawful for a housing provider to refuse to make changes to policies, practices or procedures that a person with a disability may need to have equal opportunity to enjoy and use a dwelling. “Reasonable Accommodation.”
- One common request housing providers receive is for a reasonable accommodation to providers’ pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing, including public and common use areas.

42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204

What is an Assistance Animal under FHA?

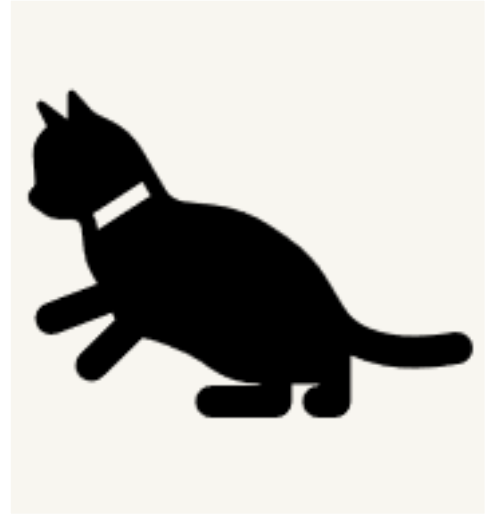
Prior to HUD's May 22, 2026, Memo, an animal that

- Works, provides assistance, or performs tasks for the benefit of a person with a disability (service animal).
- That provides emotional support that alleviates one or more identified effects of a person's disability (emotional support animal or ESA).
- Not limited to dogs.



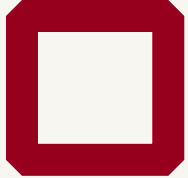
Important Note!

- The definitions have lived entirely in sub-regulatory guidance.
- Until May 22, 2026, the operative documents were the 2013 notice (FHEO-2013-01) and the January 28, 2020 notice (FHEO-2020-01)



Obligations Under the ADA

- Since March 15, 2011, the DOJ regulations recognize only dogs as service animals under Titles II and III of the ADA — defined as a dog individually trained to do work or perform tasks for a person with a disability (28 C.F.R. §§ 35.104, 36.104).
- One carve out – for miniature horses.
- ESAs are not recognized. No access rights attach.



**What Did
HUD Do?**



May 22, 2026 Enforcement Guidance Memo

- Announced HUD's enforcement shift away from housing discrimination cases concerning ESAs.
- Announced intent to pursue only cases “involving animals trained to provide disability-related assistance.”
- Makes permanent the September 2025 recission of HUD's prior guidance from 2013 and 2020 that discuss assistance animals, including ESAs, as reasonable accommodations under FHA.

Specific Changes

- Adopts the ADA's trained-service-animal standard.
- Removes the presumption favoring untrained ESAs.
- Freezes all open ESA cases for individual review.
- Signals future rulemaking — but gives no timeline.

Change 1: It Adopts the ADA Standard

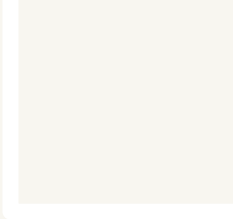
- HUD will only recognize animals “individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.”
- Comfort or companionship alone does not equal “work” or “task.”
- Non-dog species can still count – but only if individually trained.
- Eliminates the whole concept of an ESA from federal enforcement.

Changes 2 & 3: Presumption Gone; Cases Frozen

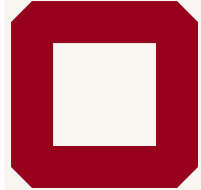
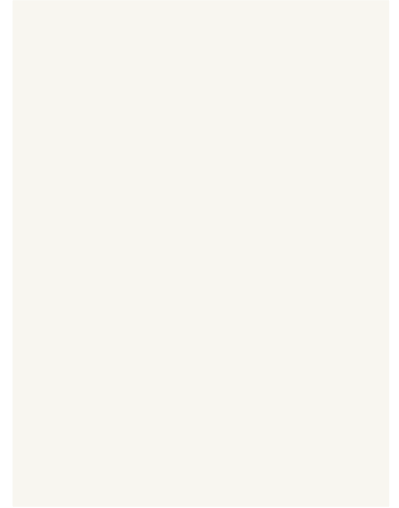
- The presumption favoring untrained ESAs is gone.
- Open ESA complaints will be sent for individual review under the new standard.
- Cases near a discrimination finding will likely close without one.

Changes 4: Memo Signals Future Rulemaking

- HUD says it will update its 1989 regulations to match the ADA
- That means public notice, a comment period, and a final rule
- No timeline is given, and the process invites legal challenge
- Until a final rule issues, current regulations stand



What It Means in Practice



What Changed for You as a Tenant

- A HUD complaint is no longer meaningful for an untrained ESA - only trained animals will get federal enforcement.
- HUD will close ESA cases without finding a violation.
- A major deterrent against ESA denials and pet fees has been removed.

What “Individually Trained” Means

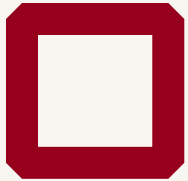
- Must be trained to do a task directly related to your disability.
- General comfort and companionship do not count.
- No certified trainer required; owner-training can be enough.

Pet Fees and the Henderson Case

- Old FHEO guidance: generally no pet fees for assistance animals.
- HUD attached Henderson v. Five Properties LLC to the memo.
- That case: refusing to waive a pet fee wasn't automatically illegal.
- Federal consequences for charging ESA fees are now less likely.
- Legality still depends on your facts and your state's law.

Your ESA Letter & Existing Approvals

- A treating provider's letter is still meaningful evidence of need for accommodation.
- HUD just won't use it to pursue an untrained-ESA complaint.
- Courts and state agencies still weigh that documentation.
- Already approved at your home? That approval should stand.
- Bigger risk: moving, a new request, or an emboldened landlord.



What Remains: Rights & Remedies



What Did NOT Change

- The FHA is still law — its text never required training.
- Your right to sue: two years, in federal or state court.
- Section 504 of the Rehabilitation Act is unaffected.
- State and local fair housing laws are unaffected.
- Fair housing organizations can still investigate and sue (but whether they can use federal funding to do so is an unanswered question).

If Your Landlord Says No

- Don't panic — HUD was never your only path.
- Put everything in writing and keep copies.
- Contact a fair housing or disability rights organization (often free).
- In California: file with the CRD or consult a disability rights organization, fair housing organization, or attorney.
- Don't sign away rights or agree to fees under pressure.

Contact Us



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Email: info@dredf.org



Website: dredf.org



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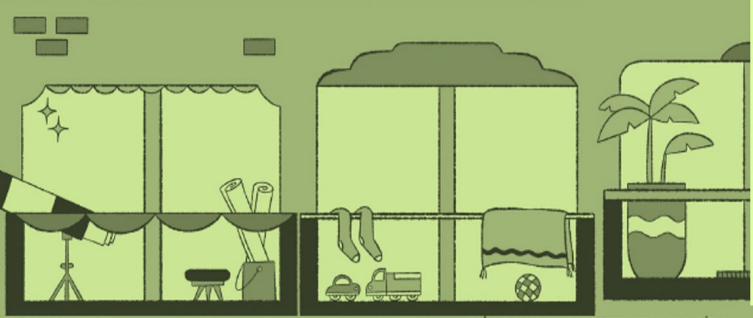
TikTok: [disabilityrights](https://www.tiktok.com/disabilityrights)



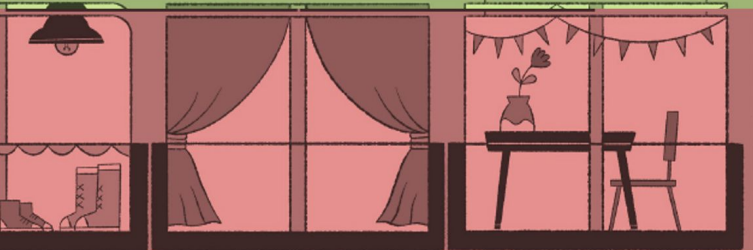
I live in California, how will HUD's new guidance impact me?

- California has always had stronger housing discrimination protections, and this has not changed.
 - FEHA, Unruh Civil Rights Act, GC 11135
- Refusing to allow a reasonable accommodation for an untrained service animal is still a violation of California law.
- CRD will continue taking and enforcing complaints involving untrained ESAs.

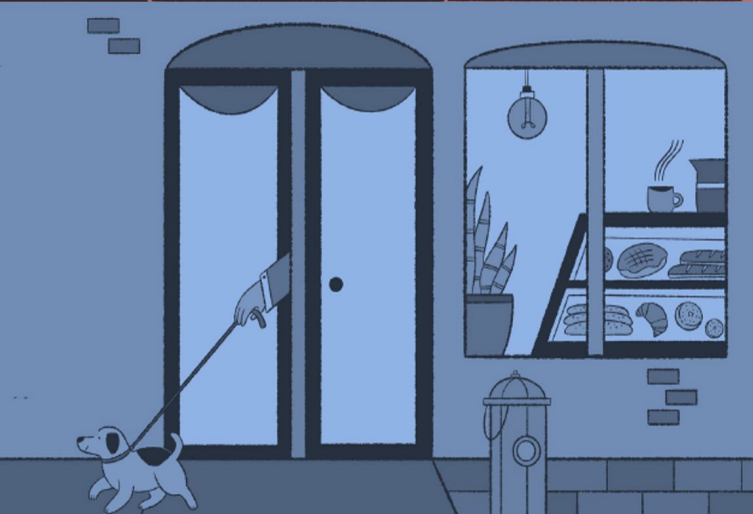




Local law can add protections in addition to federal and state law. For example, Los Angeles protects against discrimination based on employment status, which is not recognized by federal or state law.



State law can include protections in addition to the federal “floor”. For example, California protects against discrimination based on criminal history, which is not recognized by federal law.



Federal law sets the “floor” of legal protections. When states have no applicable state law, federal law applies. States with applicable laws may have protections in addition to federal law, but cannot provide less protections than federal law. For example, disability discrimination is protected by federal law, so California must minimally protect against disability discrimination.

Housing Protected characteristics (Federal)

(California)

Religion

Sexual Orientation

Disability

Immigration Status

National Origin

Ancestry

Familial Status

Age

Color

Gender

Gender Identity

Race

Medical Condition

Genetic Information

Primary Language

Ethnicity

Marital Status

Military/Veteran Status

Gender Expression

Citizenship

Source of Income (ex. Section 8)



Can be actual, perceived, or associated with a person with protected characteristics

California law is clear that housing providers must allow untrained ESAs if there is a disability-related need for one.

- Housing providers are allowed to have rules regarding pets, including prohibiting pets; prohibiting certain types of pets, such as large or wild animals; or prohibiting nuisance activity caused by pets, such as constant barking
- However, if a tenant or resident has a disability-related need for an ESA, the housing provider must allow the person to have the animal as a reasonable accommodation, unless the housing provider can show that an exception applies



Can a housing provider ask me for proof of my need for an untrained ESA?

Yes

- But only enough info to document the disability related need. No diagnosis or medical records are necessary.
- No documentation required if a disability is obvious.



Does documentation of the need for an ESA have to come from a licensed medical professional?

No

Documentation can come from any reliable third party who is in a position to know about the individual's disability or the disability-related need for the ESA, such as a:

- Therapist
- Social worker
- Non-medical service provider
- Member of a peer support group
- Parent, child, or other relative
- A person's own credible statement





Poll: Can a housing provider charge a fee or rent to have an ESA?

No

- Housing providers may not charge someone with an ESA a “pet deposit,” “pet rent,” or any other fee or rent because of the ESA.
 - This is true even if they charge other tenants such additional fees, deposits, or rent
- In addition, a housing provider may not require someone with an ESA to obtain liability insurance covering the animal
- But still liable for damage done by ESA that is more than normal wear and tear



Must an ESA be registered to qualify for a reasonable accommodation?

No

- There is no legal requirement that an animal must be “registered” or “certified” for it to serve as an ESA.
- Businesses that claim to register or certify ESAs are charging for a service that is unnecessary to establish the necessity of a reasonable accommodation.



When may a housing provider deny a request for an ESA that helps someone manage their disability?

- After a tenant or resident has shown that they have a disability-related need for an ESA, the housing provider may deny the request only in the following, limited circumstances:
 - An undue financial burden
 - A fundamental alteration to the housing provider's business, or
 - When the animal constitutes a direct threat to the health or safety of others or would cause substantial physical damage to the property of others, and that harm cannot be sufficiently reduced or eliminated by a reasonable accommodation

Can someone have more than one ESA?

Yes

- Housing providers can ask for documentation of why each animal is necessary.
- Housing provider may consider whether the total impact of multiple animals in the same housing unit amounts to an undue burden or fundamental alteration of the housing program

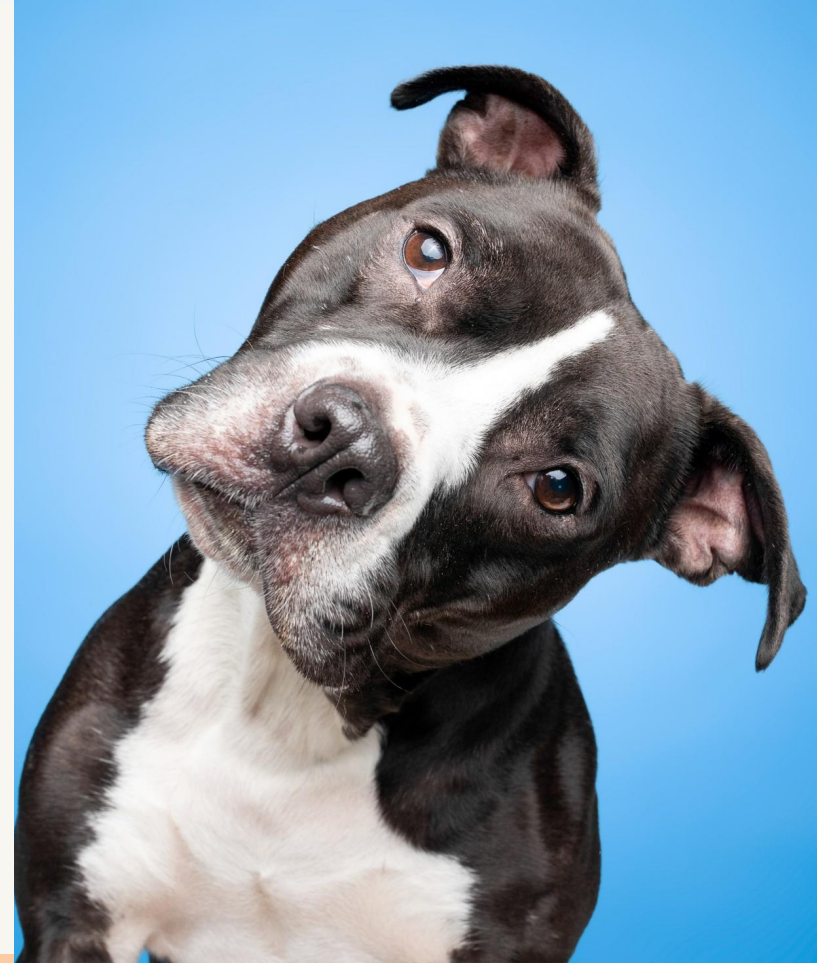




May a housing provider limit the breed, size, or weight of ESAs?

No

- A determination of a direct threat must be analyzed on a case-by-case basis.
- Can't be based on stereotypes.
- Insurance companies must also allow Ras for ESAs even if they exclude certain breeds in homeowners insurance policies.



Did Assembly Bill 468 change California fair housing law regarding ESAs?

NO

- In 2021, California enacted Assembly Bill 468, which, among other things, places some conditions on health care practitioners providing documentation relating to an individual's need for an emotional support dog, but **this does not impact fair housing law and does not affect the rights and responsibilities we are discussing today.**
- Therefore, housing providers must allow reasonable accommodations for ESAs under the rules described in this presentation and DFEH ESA guidance, including the existing rules regarding what type of documentation establishes someone's disability-related need for a reasonable accommodation to have an ESA

Resources

Access at: <https://calcivilrights.ca.gov/Posters/>

Housing and Reasonable Accommodations for People with Disabilities



FAQ

California law protects people from discrimination in housing. This law is called the Fair Employment and Housing Act, or FEHA for short. FEHA gives people with disabilities the right to ask their landlord or other housing provider to make an exception or change to rules or policies so they can use and enjoy their housing. This topic is commonly referred to as "reasonable accommodations."

This document provides a general overview of rights and obligations in the reasonable accommodations process by answering frequently asked questions (FAQs). These FAQs do not address all issues and scenarios related to reasonable accommodations, and they do not address the separate topic of "reasonable modifications" or other housing protections for people with disabilities.¹ For more information on reasonable modifications, visit our factsheet at <http://reasonable-modifications>.

1 | What is a reasonable accommodation?

A reasonable accommodation is an exception, change, or adjustment to rules, policies, practices, or services that is necessary to allow a tenant, resident, or applicant with a disability to have an equal opportunity to use and enjoy housing.²

Examples of reasonable accommodations for people with disabilities may include, but are not limited to:

- Assigning an accessible parking space
- Making an exception to a no-pets policy for an emotional support animal
- Changing the date rent is due
- Allowing a third party to cosign the lease or pay the rent
- Allowing a tenant to have a live-in aide
- Stopping or delaying an eviction
- Giving someone more time to vacate a unit
- Relocating a tenant to another unit
- Allowing additional time to comply with a rule or policy
- Waiving the fee to break a lease
- Modifying the terms of a lease
- Providing additional notice to the tenant for inspections or repairs

¹ Regulations regarding reasonable accommodations and reasonable modifications can be found at California Code of Regulations, title 2, sections 12176 to 12186. More information about protections against housing discrimination related to disabilities can be found in CCR's factsheet "Disability Discrimination," available at calcivilrights.ca.gov.

² Cal. Code Regs., tit. 2, § 12176(a).

Emotional Support Animals and Fair Housing Law



FAQ

The Civil Rights Department (CRD) is California's civil rights agency. Among the laws enforced by CRD are the Fair Employment and Housing Act and its implementing regulations.¹

These laws protect tenants and residents from discrimination on the basis of disability, as well as require landlords, property management companies, homeowner associations, and other housing providers to reasonably accommodate people with disabilities so that they may use and enjoy a housing opportunity. When a housing provider disallows pets or limits the kind, size, or number of pets that someone can have, California law generally requires the housing provider to provide a reasonable accommodation to a person with a disability in order to allow them to live with an emotional support animal (ESA) that assists that person in managing their disability.

To assist housing providers, tenants, residents, and others understand and comply with California law, CRD is providing answers to frequently asked questions about ESAs.

1 | Is an ESA a pet?

No. An ESA is an animal that provides emotional, cognitive, or other similar support to a person with a disability to assist them in managing the symptoms of their disability. ESAs are also referred to as comfort animals or support animals.²

2 | Is an ESA a service animal?

No. An ESA is different from a service animal. A service animal refers to an animal trained to perform specific tasks to assist an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. For example, guide dogs are service animals that assist people who are blind or have low vision with navigation, and signal dogs are service animals that alert individuals who are deaf or hard-of-hearing to sounds. An ESA is not a service animal because the ESA is not specifically trained to assist a person with a disability.³ For the rules applicable to service animals, which are not covered by these FAQs, review California Code of Regulations, title 2, section 12185.

¹ Gov. Code § 12900 et seq.; Cal. Code Regs., tit. 2, § 11000 et seq.

² Cal. Code Regs., tit. 2, § 12005(d).

³ Cal. Code Regs., tit. 2, § 12005(d).



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Fair Housing Rights for
People with Disabilities





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Thank you!

For more information or to file a complaint please contact CRD:

Website: www.cacivilrights.ca.gov

Phone: Contact Center: 800-884-1684 (voice)

California's Relay Service at 711

Email: contact.center@cacivilrights.ca.gov

