

SHELTER
PALS



SHELTER POLICY AND LEGAL SERVICES

A PROGRAM OF THE SAN FRANCISCO SPCA



A group of kittens of various breeds are sitting on a white windowsill. One kitten on the left is looking up towards the window. In the center, several kittens are huddled together. On the right, another kitten is looking towards the camera. The background is a bright window with a view of a building.

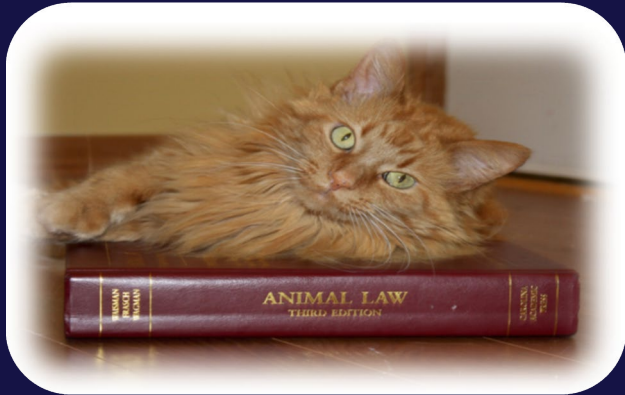
Shelter PALS Webinar Series

*Rescuing the Shelters,
Sheltering the Rescues,
and
Working Together for the Animals*



Agenda

Navigating CA Law for Rescues



- ▶ Shelter PALS Welcomes Rescues
- ▶ Shelter Law Basics
- ▶ Rescue Law Particulars
- ▶ Lifesaving Collaborations
- ▶ Myths Dispelled
- ▶ CalAnimals Help for Rescues



Today's Focus

- Using the law to
 - Meet rescues' and shelters' mutual goals
 - Develop best practices for shelter-rescue cooperation
 - Increase lives positively impacted (LPI)



**HOW YOU
FEEL WHEN...**

**...someone says it's
Just a Dog**

**And you think... You're
Just an Idiot!**

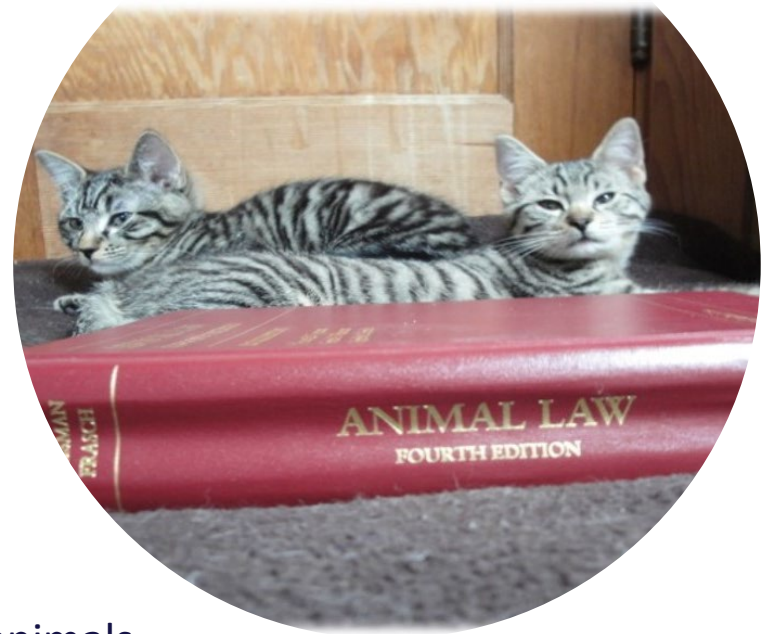
I Love Animals





Hayden Act (1998)

- Historic shift for rescues and shelters
 - State **policy** -- no adoptable/treatable animal should be euthanized
 - “Policy” does not = a requirement
 - Reflected 1998 views, much has changed
 - Specifically added rescues into the flow of animals from shelters to the public
- Parts of Hayden not in effect because of unfunded mandate issue
 - *For more info on this, view Shelter PALS webinar re Hayden Act/mandate/holding periods here: <https://www.calanimals.org/rescues>*



Shelter Jargon: “Public” v. “Private”

PUBLIC (two types)

- “Municipal” -- run by local government (usually gov’t department, e.g., Animal Services, Police Dept.)
- “Hybrid” -- run by private group (nonprofit or other) that contracts with a municipality to carry out sheltering and/or animal control functions for the municipality

PRIVATE

- Independently operating shelter (nonprofit or other) that does not carry out any municipal functions.
- May accept animals from the local municipality or public shelter or rescues or private individuals.



Shelter Intake

A topic of debate – legal, best practices

- ▶ Community sentiment and institutional history often define operations without legal basis
- ▶ Shelters in the current day – a new vision – collaborate with rescues to reduce euthanasia, increase “Lives Positively Impacted” (LPI)
- ▶ Key: know legal mandates, and be flexible within those parameters → more LPI



Cat Intake -- legal

Public Shelters

- No mandatory state law requirement to pick up **healthy** cats
- The law mandates pickup of cats who are
 - Owned **and**
 - Injured/in need of veterinary care
- Most local ordinances do not address seizure of *any* healthy cats, owned or unowned – but check your municipality's requirements



Dog Intake -- legal

Public Shelters

- No mandatory state law requirement to pick up **unowned, healthy** stray dogs
- State law mandates the pickup of
 - Owned dogs who are
 - Injured/in need of veterinary care
- Some **local ordinances** require shelters to pick up dogs running at large
- *Local rabies programs may impact this requirement*



SHELTER
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Rescues and Private Shelter Intake

Rescues/private shelters with no connection to a municipality are under no obligation to intake any animals

- Although intake is voluntary, once animals are taken in, other legal obligations will apply
- Only exceptions to this rule are bylaws or policies/contracts of the shelter, if any.



TAKEAWAY

No state mandate to intake any animals for rescues or wholly private shelters



The Confusing Part: “Unfunded Mandates”

Public Shelters v. Rescues/Private Shelters



What is an “unfunded mandate”?

- If a new law requires (“mandates”) local governments to spend money, the state must reimburse the municipalities in most cases. If the state does not reimburse, the mandates are “unfunded” and unenforceable
 - Cal. Const., Art. XIII B, Section 6
- Parts of the Hayden Act are “unfunded mandates” and not in effect for public shelters, because the state is not reimbursing. This means:
 - **Public shelters:** most **holding periods** currently found in the California Codes do not apply; the appropriate holding periods are those that were in effect *before* Hayden was enacted.
 - *For more detailed explanation, view Shelter PALS webinar re holding periods here: <https://www.calanimals.org/rescues>*
 - **Rescues/Private shelters:** the “unfunded mandates” issue does not apply to rescues or private shelters. The language of the Codes *may* apply.



Shelter/Rescue Partners

Legal and practical applications

- ▶ Understanding the law helps define shelter and rescue operations
- ▶ Rescues today
 - ▶ Partnering with shelters
 - ▶ Seeking best outcomes
 - ▶ Relying on legal expertise and solutions to various issues
- ▶ Knowing the law allows flexibility and → more LPI



What's in a name?

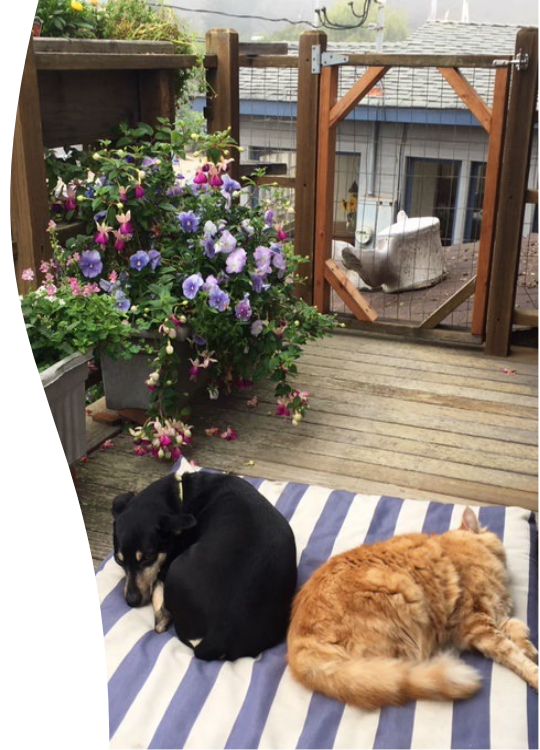


- “Rescue”, “nonprofit animal welfare organization”, “adoption organization”, “sanctuary” ...
- The only legal requirement for pull rights is nonprofit status under Internal Revenue Code § 501(c)(3)
 - Any nonprofit animal welfare organization qualifies for consideration by shelters
 - Be sure that registration is secure, current, and maintained in all respects
 - (Rescues that are not nonprofits can still operate, they just don’t meet the statutory requirements for pull rights etc. And they are allowed to pull animals if shelters offer them.)



It's Not What You Say It's What You Do

- Legal definition/factual underpinnings of “rescue” or “adoption organization”:
 - A group “with at least one of its purposes being the sale or placement of [animals] that have been removed from a [shelter] or that have been previously owned by any person other than the original breeder.”
 - E.g., FAC 30503(a)(2)



Rescue Legal – Ownership of Non-Shelter Animals

There is no 30-day rule!!!!

- A rescue **cannot establish ownership** of animals it finds, or receives from the public, without doing one of the following:
 - **Best option:** Rescue and shelter partner in a Finder-Foster program – which avoids impoundment, and is the quickest (three days) and most humane practice
View Shelter PALS webinar re Finder-Foster program here:
<https://www.calanimals.org/rescues>
 - Shelter impounds, holds for statutory hold period, and complies with the legal requirements of scanning, sterilizing, and taking reasonable efforts to contact and notify owner.
 - An owner, shelter, or other rescue signs over all rights and transfers ownership to the rescue



Rescue Legal – Civil Code 1815



- The “depository” statute applies to rescues who pick up or receive animals:
- An involuntary deposit is made:...
- (c) By the delivery to, or picking up by, and the holding of, a stray live animal by any person or public or private entity.
- (d) By the abandonment or leaving of a live animal on vacated property (home, rental, foreclosure)



Rescue Legal – Civil Code 1816

- Once deposited, the rescue is “bound to take charge” of the animal, “if it is able to do so”, and “is subject to all local ordinances and state laws that govern the proper care and treatment of those animals”
- (b) Once in possession of the animal, rescues “**shall immediately notify animal control officials** for the purpose of retrieving the animal...”



Rescue Legal – Working with shelters to pull shelter animals: Who can be a rescue partner?

- Public shelters* have initial discretion to decide which rescues are proper partners
 - Recent Court of Appeal decision confirmed this right of shelters (*Santa Paula Animal Rescue Center v. County of Los Angeles* (2023) 95 Cal.App.5th 630)

Food & Agriculture Code §§ 31108 (dogs), 31752 (cats)

**Rescues and private shelters have complete discretion in deciding who to work with.*





Working with shelters for most LPI: Pull rights and requirements

- Public shelters* have a “mandatory duty” to release, to approved rescues, any impounded [animal] scheduled for euthanasia
 - Subject to statutory exceptions (next slide)

Food & Agriculture Code §§ 31108(b)(1) (dogs), 31752(c)(1) (cats).

- Rescues must make timely request
- Only applies to animals impounded under the Food & Ag Code
- Recent Court of Appeal decision confirmed this requirement (*Santa Paula Animal Rescue Center v. County of Los Angeles* (2023) 95 Cal.App.5th 630)

**Rescues and private shelters have complete discretion in deciding who to work with and who gets their animals.*



Rescue pull rights: Exceptions



- Food & Agriculture Code (FAC) § 17006
 - Shelters can immediately euthanize:
 - “Animals that are irremediably suffering from a serious illness or severe injury”
 - Newborn animals without their moms
- FAC § 31108.5
 - *Owner surrenders only*: Allows immediate euthanasia for dogs with “a history of vicious or dangerous behavior documented by the agency charged with enforcing state and local animal laws.”
- FAC §§ 31108(b)(2); 31752(c)(2)
 - *Shelters have discretion with respect to transfer* of puppies/kittens under eight weeks of age reasonably believed to be unowned
- FAC § 31752.5(c) – feral cats
 - Options for shelters:
 - *Discretionary transfer* to a rescue or
 - Euthanasia, if the shelter verifies feral statute “by using a standard protocol”



Rescue Legal

Spay/Neuter requirements

[in counties with > 100K population]

- “No ... rescue group shall sell or give away to a new owner any [dog or cat] that has not been spayed or neutered”
- Exception:
 - Veterinarian’s certification re medical exception. In that case:
 - Deposit required, supposedly to “encourage” s/n, but range is only \$40-\$75
 - S/n required within 14 days of release by DVM
 - Deposit returned upon proof
 - Shelters and rescues can enter into cooperative agreements instead of deposit requirements to move animals through

Food & Agriculture Code §§ 30503 (dogs), 31751.3 (cats)



Rescue Legal Spay/Neuter *[in counties with < 100K population]*

- “No ... transfer to a new owner of any [dog or cat] that has not been spayed or neutered”
- Exception – unsterilized animals can be transferred if:
 - Veterinarian’s certification re medical exception (similar to >100K population counties)
- Signed agreement to get animal sterilized within 30 business days (time can be extended), with sterilization deposit and written agreement
 - Deposit is supposedly to “encourage” s/n, but range is only \$40-\$75
 - Deposit returned upon proof
 - Shelters and rescues can enter into cooperative agreements instead of deposit requirements to move animals through

Food & Agriculture Code §§ 30520-30523 (dogs); 31760-31763 (cats)



Rescue Legal

Microchips



- Cannot turn over a dog or cat, unless either:
 - Owner/new owner's information is on chip (*not* rescue's info), and rescue provides information on transferring ownership, OR
 - If no chip capabilities, an agreement from new owner to prove microchip done within 30 days
- Additional provisions
 - If no chip capabilities, provide information on how to get it done
 - Make efforts to contact registered individual for chipped animals
 - Microchip not required if
 - Veterinarian certifies medical exception
 - Cost would impose an economic hardship

Food & Agriculture Code FAC §§ 31108.3 (dogs), 31752.1 (cats)



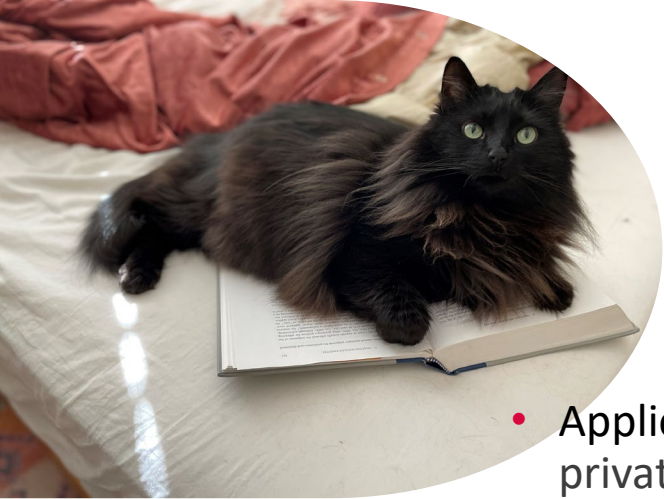
Rescue Legal

Known bite history disclosure

- Before releasing a dog that you know is “four months or older, bit a person and broke that person’s skin” “requiring a state-mandated bite quarantine”:
 - (1) Disclose known bite history in writing (including details);
 - (2) Get signed acknowledgment from recipient; and
 - (3) Provide recipient with copy, and keep a copy, of the acknowledgment.
- Up to \$500 fine for violation

Food & Agriculture Code § 30526





Rescue Legal -- Safe Transport Requirements

- Applies to rescues “in a cooperative agreement with at least one private or public shelter”
- Covers any vehicle used to transport animals
- Very reasonable requirements -- “shall not endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal”

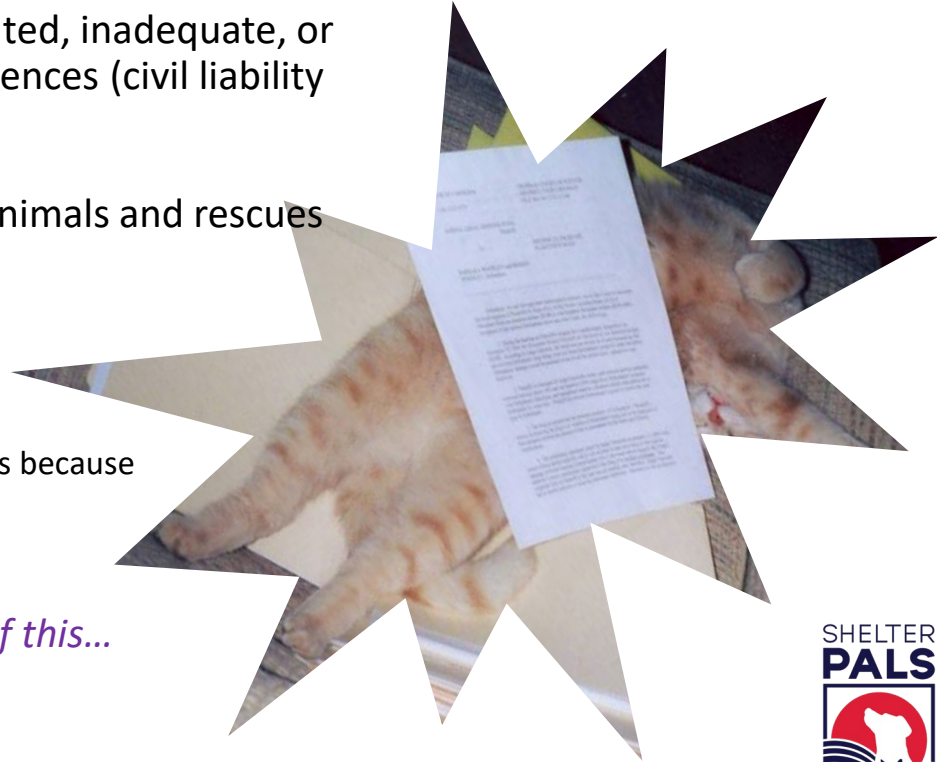
Health and Safety Code § 122390 *et seq.*



Rescue Legal

Protecting Your Rescue “On Paper”

- Many shelters and rescues operate with outdated, inadequate, or no agreements, with potential negative consequences (civil liability and harm to animals)
- Legally enforceable agreements that protect animals and rescues are vital to success:
 - Agreements with shelters and other partners
 - Adoption/Foster/Transfers of ownership
 - Owner surrender
 - Ability to reclaim animals in distress
 - NB insurance companies very concerned with this because of liability issues for rescues
- *Shelter PALS clients get free assistance on all of this...*



Myths Dispelled



Shattering the Myths

1. **FALSE:** Rescue/private citizen can claim ownership of found animals after 30-day period
2. **FALSE:** Rescue/private citizen can claim ownership of found animals after 90-day period without doing more
3. **FALSE:** State law requires shelters to intake healthy unowned stray and owner-surrendered dogs/cats
4. **FALSE:** Cats in TNR/Community Cat Programs are subject to hold periods
5. **FALSE:** Shelters cannot house animals offsite during holding periods (e.g., Finder-foster, disaster, cruelty cases)
6. **FALSE:** Requirement to contact known owners of strays extend holding period



Q+A –

**We'll collect your questions,
And we'll give you our
answers
(later)**





CalAnimals

Since 1909

[Calanimals.org/rescues](https://calanimals.org/rescues)



CalAnimals

Since 1909

Jill Tucker,

CAWA

CEO

CalAnimals

March 28, 2024



**Important
Information
for our Rescue
Partners**

What's Happening

- **Insurance Issues for Nonprofits**
- **Shelter Overcrowding & Solutions**
- **Resources & Upcoming Trainings**



Insurance Issues for Nonprofits

Companies non-renewing!

May affect 50% of animals in CA

Why is this happening?

High cost of settlements in general

Seven figure payouts

Failures in disclosures

Some degree of negligence





Risk Management Tips Gathered from Insurance Experts

Documentation & Disclosure
Contracts
Release of liability
No retention of ownership

Training Recommendations:

Mitigating Risk in Animal Shelters & Rescues
Association of Animal Welfare Advancement
June 5, 2024

Understanding Aggressive Behavior in Dogs
Kelley Bollen, MS, CABC
CalAnimals, July 18, 2024

And please don't adopt out dogs that are highly likely to bite people in response to normal handling.

[Calanimals.org/rescues](https://calanimals.org/rescues)

Shelter Overcrowding & Solutions

Capacity crisis as intakes exceed outcomes

ShelterAnimalsCount.org

Driven by issues related to housing, inflation, lack of access to vet care, insufficient spay/neuter, and more



Photo credit: Kern County Animal Services





Photo credit:
Stanislaus Animal Services Agency

Animal Transfers & Increasing Adoptions

Moving animals to help
balance out supply and
demand.

Be mindful of length of stay.

Increase our share of pet
acquisition market

Estimate only 30% acquire pets
from shelters/rescues

Campaign coming soon!

Adopters Welcome

Help People Choose Adoption

Reducing Barriers:

- Home visits
- Landlord checks
- Fence requirements
- References
- Vet checks & current pet requirements
- Income requirements
- Age based adoptions
- Mandatory meet & greets with current pets
- Long Response times
- Inaccessible hours

Conversational Approach:

Help adopters find the right match!



Photo credit: Ventura County Animal Services

Check out the “Increase Adoptions”
section at calanimals.org/rescues

Upcoming Trainings & More

Communicate on Your Own Terms:
A training for Animal Shelter and
Rescue Leaders
April 11th 10-11am

Mitigating Risk in Animal Shelters
and Rescues (AAWA)
June 5th 12pm to 1pm

Understanding Aggressive
Behavior in Dogs
July 18, 2024

Laws, Legislation, Recorded
Trainings and More!

Resources

calanimals.org/rescues





Thank you!

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