

# Title II of the Civil Rights Act of 1964 Issue Spotting & Enforcement

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# Outline

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- Title II Overview
- Examples of Title II Violations
- Title II Enforcement



# Title II of the Civil Rights Act of 1964

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Prohibits discrimination in certain places of public accommodation because of:

- race
- color
- religion
- national origin

# Title II Coverage: “Public Accommodations”

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## **Public accommodations:**

- Hotels, inns, motels, or other establishments for temporary guests
- Restaurants, cafeterias, or other spaces where people can buy food to eat on site
- Gas stations
- Movie theaters, concert halls, sports stadiums, or other places of entertainment

## **Not public accommodations:**

- Most retail stores (that do not sell food on the premises)
- Churches, synagogues, mosques, and other religious buildings
- Private clubs that require memberships to join

# Title II Prohibits

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- withholding, denying, or depriving any person of the right or privilege of full and equal enjoyment of public accommodations
- intimidating, threatening, or coercing any person with the purpose of interfering with the right or privilege of full and equal enjoyment of public accommodations
- punishing any person for exercising or attempting to exercise the right to the full and equal enjoyment of public accommodations

# Rights Under Title II

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- The right to full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation.
- The right to not be treated differently by a place of public accommodation because of race, color, religion, or national origin.
- The right to bring a private lawsuit when the plaintiff believes they have been discriminated by a place of public accommodation.
- In a Title II lawsuit, private plaintiffs cannot receive monetary damages but they can get a court order to stop the place of public accommodation from discriminating against themselves and others.

# Examples of Title II Violations

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- A hotel receptionist charges African-American guests higher rates than White hotel customers. The same hotel also (1) refuses to rent suites to African-American guests but rents suites to White guests; and (2) denies African-American guests access to the pool but allows White guests access to the pool.
- A bar tells Asian-American and African-American patrons that it is at capacity but allows White patrons to enter the bar.



# Examples of Title II Violations

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- A bar turns away a Sikh patron because the patron was wearing a turban. The bar tells the patron that the only types of headwear it allows are baseball caps and cowboy hats.
- In a restaurant, a group of Asian Americans waits for close to an hour to be served, while White customers are served promptly.



# Examples of Title II Cases

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- [\*United States v. Jarrah\* \(S.D. Tex. 2018\)](#): allegations of discriminatory admission practices (cover charge, dress code) to discourage African-American, Hispanic, and Asian-American individuals from entering a Houston-based bar and restaurant. Resolved by Settlement Agreement.
- [\*United States v. Kung Fu Saloon\* \(N.D. Tex. 2015\)](#): allegations of discriminatorily-enforced dress code and capacity limits, longer wait time, and booking limits for African-American and Asian-American individuals at a bar and restaurant with locations in Dallas, Houston and Austin. Resolved by Consent Decree.

# DOJ Enforcement of Title II

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- The Attorney General can bring a civil action to address a pattern or practice of Title II violations.
  - A “pattern or practice” generally means that there is more than one individual incident of discrimination, and that there is a policy or repeated discriminatory acts.
- The Attorney General cannot pursue individual complaints of discrimination under Title II, but individuals may bring their own Title II claim privately, after giving 30 days' written notice to their state or local agency that prohibits such discrimination.
- When an individual files a Title II action, the statute authorizes the Attorney General, in the discretion of the court, to intervene if the Attorney General certifies that the case is of general public importance.



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QUESTIONS?