

## LAW REVIEW 21038

This is an update to [Law Review 19027](#)

July 2021

### **Where to Find Federal and State Laws Online that Protect Students whose Educational Careers Are Interrupted by Military Service**

By Commander Wayne L. Johnson, JAGC, USN (Ret.)

#### 1.1.2.4—Students

#### 1.8—Relationship between USERRA and other laws/policies

The Uniformed Services Employment and Reemployment Rights Act (USERRA) does not apply to the postsecondary<sup>1</sup> students whose educational programs are interrupted by voluntary or involuntary military training or service because the educational institution is not the student's *employer*. In 2008, Congress enacted a USERRA-like law for postsecondary students. That law is codified in title 20 of the United States Code, section 1091c.<sup>2</sup>

More than half the States have enacted State laws protecting postsecondary students whose educational careers are interrupted by voluntary or involuntary military training or service. Section 1091c does not supersede or override a State law that provides *greater or additional rights*, over and above section 1091c.

Over the past year several years, the Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), has published several Law Review (LR) articles (see the below listing) about section 1091c and these State laws. This latest article mainly updates the State laws and policies, including several new ones and updating web links that have gone bad. The list now has 31 States plus Puerto Rico.

Some of the earlier LR articles referred to the Servicemembers Opportunity Colleges (SOC) materials posted on the American Association of State Colleges and Universities (AASCU) webpage. Unfortunately, that website no longer exists. SOC was established in 1972 to help meet the higher education needs of service members. SOC was a Department of Defense (DoD) contractor supporting government-sponsored education programs funded through a DoD-managed contract with the AASCU. The contract ended in 2017. I captured most of the SOC.AASCU web page content and present it here.

---

<sup>1</sup> Postsecondary means after high school. These laws do not apply to high school students.

<sup>2</sup> 20 U.S.C. 1091c. This is *not* section 1091(c), which is subsection (c) of section 1091. In title 20 of the United States Code, you will find sections 1091a, 1091b, and 1091c after section 1091 and before section 1092.

**Prior ROA Law Review articles that have dealt with this subject:**

[LR 17019](#): Presidential Executive Order 13607 Establishes Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members, April 27, 2012: Expanded Coverage of 34 CFR 668.18 To Include Mobilizations of 30 Days or Fewer

[LR 15039](#): Federal Law Protects Students Called to the Colors during a Semester, but it Does not Help the Student who Must Miss a few Days for Drills or Annual Training.

[LR 15038](#): Federal and State Laws Protect Students Whose Educational Careers Are Interrupted by Military Service.

[No. 13071](#) New Washington Law Protects Students Who Are Members of the National Guard or Reserve.

[LR 13070](#): Federal and State Laws Protect Students whose Educational Careers Are Interrupted by Military Service.

[No. 10052](#) Readmission of Servicemembers to Postsecondary Institutions - Details Regarding the Department of Education (DOE) Regulations Implementing the New Law on Mandatory Readmission of Mobilized Reserve and Guard and Active-Duty Student

**What follows here is a compilation of the materials that used to be on the SOC.AASCU website:**

**Activation / Mobilization Support**

Servicemembers Opportunity Colleges (SOC) supports our service members called to active duty in the fight against global terrorism. In cooperation with the Department of Defense, we are providing assistance to activated military students and the colleges/institutions in which they are enrolled. Included in this section are a checklist for students who are currently attending college and have been called to active duty; sample letters to college administrators, student loan administrators, and apprenticeship/OJT certifying officials advising them of the student's activation; and information on the disposition of GI Bill benefits and student loans upon activation. In addition, we provide related web links with valuable information to both students and college administrators. Policy letters, federal law, state laws, and governing policies addressing activation of military students include letters issued by the American Council

on Education (ACE) and the American Association of State Colleges and Universities (AASCU) to their member institutions.

## **Federal Law**

### **HEROES ACT – Section 487**

[Higher Education Opportunity Act of 2008, Public Law 110-315, Section 487](#)

### **Readmission Requirements**

[20 United States Code \(U.S.C.\) Section 1091c](#)

[5 Code of Federal Regulations \(C.F.R\) section 668.18](#)

### **[GI Bill Benefits and Student Loans](#)**

#### **[Principles of Excellence program](#)**

The Principles of Excellence program requires schools that get federal funding through programs such as the GI Bill to follow certain guidelines. Learn about these guidelines. This program was created by Executive Order 13607 and has essentially been codified in federal statute with Section 1018(f)(1)(G) of [PL 116-315 'Isakson-Roe Veterans Health Care and Benefits Act of 2020'](#). This provision amends 38 USC 3679, and applies to all educational institutions effective 1 August 2021. Section 1018(f)(1)(G) requires an educational institution to maintain a policy that ensures that members of the Armed Forces, including the Reserve components and the National Guard, who enroll in a course of education be readmitted if members are temporarily unavailable or must suspend enrollment by reason of military service.

## **SLIDE PRESENTATIONS ON FEDERAL LAW [20 United States Code \(U.S.C.\) Section 1091c](#)**

The first link was originally on the Department of Education or DANTES web site but now is only on the Catholic University of America's Graduate Studies website:

[https://graduate-studies.catholic.edu/\\_media/docs/dept-of-ed-readmission-of-servicemembers-brief-formatted.pdf](https://graduate-studies.catholic.edu/_media/docs/dept-of-ed-readmission-of-servicemembers-brief-formatted.pdf)

<https://www2.ed.gov/policy/highered/guid/readmission.html>

## **State/Territory Education Benefits and Points of Contact**

To view the educational benefits made available to you by each U.S. State or territory, click on the below links and select from the map or drop-down menu. State benefits include tax benefits, education benefits, employment benefits, health insurance benefits, and more. Each

fact sheet contains details of the benefits available and eligibility to Soldiers and family members.

<https://myarmybenefits.us.army.mil/Benefit-Library/State/Territory-Benefits>

<https://militarybenefits.info/state-veterans-benefits/>

**State Laws/Statutes/Codes/Governing Readmission Policies web pages – NOTE: This list may not include all the States that have laws in this area - so always check even if your State is not listed.**

Regardless of whether your State had a law or regulation on military absence policies, all colleges that receive government funding have internal policies to comply with Federal and State laws. Some policies may be more generous than required by law. Thus, if you are being mobilized you should find out what office can assist you in making a smooth withdrawal or readmission after you return. Your college's military or veterans' affairs office should be able to assist you.

During the whole process, keep notes of "who, what, when, and where" in the off chance you must file a complaint with State or Federal officials or appeal to the Dean of Students, etc. That includes e-mails and letters. For face-to-face meetings or telephone calls, make a written memo that same day of what transpired. I recommend one put such a memo in an e-mail to those involved and ask them to confirm or contradict your account. Lastly, always keep copies of all correspondence you send or receive as memories tend to fade with time, especially after a long period of military service.

## **Alabama**

Alabama Code Title 31; Chapter 12

[https://www.lawserver.com/law/state/alabama/al-code/alabama\\_code\\_title\\_31\\_chapter\\_12](https://www.lawserver.com/law/state/alabama/al-code/alabama_code_title_31_chapter_12)  
or <https://law.justia.com/codes/alabama/2017/title-31/chapter-12/>

## **Arkansas**

Arkansas Activation Law, Subtitle 5; Chapter 61; Subchapter 1; 6-61-112

## **California**

California Code of Regulations (CCR) 5 § 55024. Withdrawal

[California Law: MILITARY AND VETERANS CODE – MVC, DIVISION 4. VETERANS' AID AND WELFARE, CHAPTER 3.3. California Military Families Financial Relief Act of 2005 \[824\]](#)

## **Colorado**

[Colorado Commission on Higher Education Policy](#) SECTION VI, PART C, TUITION AND FEES, Part 2.02

## **Connecticut**

[Policy on Refund and Course Withdrawals Connecticut State Community Colleges](#)

## **Florida**

[Florida Statutes, Title XLVII K-20 Education Code, Chapter 1004 Public Postsecondary Education - Student withdrawal from courses due to military service; effect.](#)

## **Georgia**

[University System of Georgia Board of Regents Policy, Section 7; 7.3 Tuition and Fees; 7.3.5.3 Military Service Refunds](#)

## **Hawaii**

[UH Systemwide Policies and Procedures](#)

[Military Leave Policy](#)

[Withdrawal for Call to Active Duty](#)

[Reinstatement of Deployed Servicemembers](#)

## **Illinois**

[Veterans and Service Members \(330 ILCS 60/\) Service Member's Employment Tenure Act.](#)

[Sec. 5.2. School attendance and tuition.](#)

[Illinois Board of Higher Education Policy - Policies Concerning Students Called to Active Military Service](#)

## **Kansas**

[Military Bill of Rights and other services provided by the state](#)

## **Louisiana**

[Louisiana Laws Revised Statutes - TITLE 29 - Military, Naval, and Veteran's Affairs – RS 29:420 Academic Penalties Prohibited](#)

## **Maine**

[Maine 37-B M.R.S.A. §388](#)

## **Maryland**

[Rights of National Guard Members and Reservists of the U.S. Armed Forces on Active Duty](#)

## **Massachusetts**

General Law - Part I, Title II, Chapter 15A, Sections 43 and 44

[Section 43: Immunity from academic or financial penalties for postsecondary students performing military service on behalf of the United States](#)

[Section 44: Readmission protections, privileges and immunities for members of armed forces attending educational institutions within the commonwealth; calculation of cumulative length of absence; exemption from academic or financial penalty](#)

## **Minnesota**

[Minnesota Statutes, 192.502 PROTECTIONS](#)

## **Mississippi**

[Mississippi IHL Board; Amendment 505.01 Students Called to Active Duty](#)

## **Missouri**

[Missouri Revised Statutes, Title V MILITARY AFFAIRS AND POLICE  
Chapter 41 Military Forces, Section 41.948 Student of higher education called to active military service — option for refund or incomplete grade — requirements — rules and regulations, promulgation, procedure.](#)

## **New Jersey**

[N.J. Stat. § 18A:62-4.2](#)

[New Jersey Statutes Title 18A. Education 18A § 62-4.3](#)

## **New York**

[New York Patriot Plan III](#)

## **Ohio**

[Ohio Revised Code Title 33 Section 3345.53 | Military leave of absence for student on active duty](#)

## **Oklahoma**

[Oklahoma Student Veteran Leave of Absence Act of 2014, effective July 1, 2014](#)

## **Oregon**

[ORS Title 30 352.293 Rights of students ordered to active duty](#)

[ORS Title 30 352.296 Credit for room, board, tuition and fees for student ordered to active duty](#)

[ORS Title 30 341.499 - Rights of student ordered to active duty; rules](#)

[ORS Title 30 341.502 - Credit for room, board, tuition and fees for student ordered to active duty; rules](#)

## **Pennsylvania**

[Pennsylvania State Policy, Chapter 32, Section 3206](#)

[Pennsylvania State System of Higher Education Board of Governors POLICY 1983-19-A: REFUND OF TUITION AND FEES](#)

## **Puerto Rico**

[P.R. Laws tit. 29, § 737\(b\) \(9\)](#)

## **Rhode Island**

### [INVOLUNTARY CALL OF STUDENT TO MILITARY SERVICE](#)

[Board of Governors for Higher Education State of Rhode Island](#)

## **South Carolina**

[South Carolina Title 59 - Education; CHAPTER 101; ARTICLE 1; SECTION 59-101-395](#)

## **Tennessee**

[Tennessee Higher Education Commission Rules](#)

[2019 Tennessee Code, Title 49 – Education, Chapter 7 - Postsecondary and Higher Education Generally, Part 23 - Higher Education During Military Service](#)

- [§ 49-7-2301. Military Reserve and National Guard personnel.](#)
- [§ 49-7-2302. Students at state college or university -- Absence for period in excess of thirty days because of active military service.](#)
- [§ 49-7-2303. Tennessee higher education commission -- Rules.](#)
- [§ 49-7-2304. Tuition and fees charged to military reserve and National Guard personnel who are mobilized for service.](#)
- [§ 49-7-2305. Excused absences for documented mandatory military service.](#)

## **Texas**

[Texas Education Code Sec. 51.844 - Readmission of Certain Military Personnel to Graduate and Professional Programs](#)

[Texas Title 19: Education \(PART 1; CHAPTER 4; SUBCHAPTER A; RULE §4.9\)](#)

[Texas Section 54.006\(f\) Refund of Tuition and Fees](#)

## **Washington**

[Washington State Final Bill Report SB 5343 — Higher Education Students Involved in Military Service](#)

<https://apps.leg.wa.gov/documents/billdocs/2013-14/Htm/Bill%20Reports/Senate/5343%20SBR%20FBR%2013.htm>

## **West Virginia**



[West Virginia §15-1F-1a. Educational leave of absence for active duty](#)

## **Wisconsin**

[WI state law now protects Guard college students called to short-term active duty  
2019 Wisconsin Act 75](#)

## **Wyoming**

[MILITARY SERVICE RELIEF ACT - Wyoming Statutes § 19-11-120  
Academic penalties prohibited](#)

### **Activation and Mobilization Checklist Provided by SOC AASCU**

#### **Before You Leave**

Notify the school and your professor/instructor that you have been activated and present the appropriate administrator with a copy of your orders.

Be sure to make contact either in person or via telephone. Leaving a voicemail or e-mail message is insufficient because further information may be required.

Keep a record of names, dates, individuals, and a brief summary of your conversations with the school and lending institution.

Notify your school's VA counselor that you have been activated and present your activation orders. Discuss the appropriate course of action with the VA Counselor.

**Note: Do not withdraw from school until you have your orders.**

Contact your student loan lending institution. It is your responsibility to follow through with any procedure the lender indicates.

Call your Education Office. If you encounter any problems resolving your academic status, request assistance from your education coordinator.

**Note: To ensure proper credit and to prevent any financial loss to the soldier, these steps must be completed prior to departure.**

#### **When You Return**

Contact the VA Certifying Official at your school to determine your eligibility for the Reserve Education Assistance Program (REAP - Chapter 1607), the Post-9/11 GI Bill (Chapter 33), or the

Active-Duty GI Bill (MGIB-AD Chapter 30), and to establish reinstatement of your GI Bill benefits.

To determine your eligibility for MGIB-AD Chapter 30 and or the Post-9/11 GI Bill, contact your Education Officer.

Upon redeployment, if you plan to continue your education, contact your college admissions professional to find out what steps you must take to re-enroll. If you withdrew from school, you may be required to re-apply in order to get back into their system. Contact your school's admissions counselor for application details and to determine your class standing.

**Note: Depending on how long you were away from school, this process may differ from that of a first-time applicant.**

Re-establish contact with your academic advisor to discuss continuation of your degree program and applicable credit for your military experience and training.

Contact your Education Officer to determine eligibility for tuition assistance and how to apply.

### **Sample Letters by SOC AASCU**

#### **Sample Letter to College Administrators**

Date:

---

Name of College

---

College Address

---

City/State/Zip

Dear College Administrator:

I, \_\_\_\_\_, SSN: \_\_\_\_\_ request  
cancellation of my <school term> enrollment and that all charges incurred be waived for this

term. The reason for this request is the activation of my <Service unit> for <reason for mobilization>. A copy of my order to active duty is attached.

The U.S. Department of Education issued guidance to colleges and universities strongly encouraging them to provide full refunds of tuition and other institutional charges to those students forced to withdrawal to fulfill their military obligation. To discuss this guidance, please contact the Education Office at < telephone/e-mail>

Thank you for your consideration in this matter and I hope to return to classes as soon as I am released from active duty.

Sincerely,

---

Student's Signature

Enclosure  
Student's Orders  
< state>

---

Printed Name of Student

---

Student's Street Address

---

City, State, Zip

### **Sample Letter to Lending Institutions**

Date:

---

Name of Lender

---

Lender's Address

---

City/State/Zip

Dear Loan Administrator:

I \_\_\_\_\_, SSN: \_\_\_\_\_ have been ordered to active duty for <reason for mobilization>. A copy of my order to duty is attached. I request that my student loan(s) if in an in-school status, an in-school deferment status, or in a grace period status remain in that status during my period of active duty. I also request the appropriate time for me to resume enrollment in the next regular enrollment period that is available.

If my loan(s) are in a repayment status, I request forbearance for the period indicated on my attached orders.

Should you have any questions please contact the Education Office at < telephone/e-mail>

Sincerely,

---

Student's Signature

---

Printed Name of Student

---

Student's Street Address

---

City/State/Zip

Enclosure

Student's Orders

CF:

---

Unit

<Service personnel office>

**Sample Letter to Apprenticeship/OJT Certifying Official**

Date:

---

Name of Firm

---

Firm's Address

---

City/State/Zip

Dear OJT/Apprenticeship Certifying Official:

I \_\_\_\_\_, SSN: \_\_\_\_\_ have been ordered to active duty for <reason for mobilization>. A copy of my order to duty is attached. I request cancellation of my OJT/Apprenticeship training program. My last day of work at the firm prior to activation is \_\_\_\_\_.

Thank you for your consideration in this matter and I hope to return to work soon after I am released from Active Duty. Upon my return to work, the State Approving Agency must to be notified as to the following:

First day back to work at the firm  
Deactivation orders  
Form DD214

This is a significant change in the status of my enrollment and must be accompanied by VA Form 22-1999b.

Should you have any questions please contact the Education Office at < telephone/e-mail>

Sincerely,

---

student's Name and Signature

---

student's Address

---

City/State/Zip

Enclosure

Student's Orders

CF:

---

Unit

< Service personnel office>

< state approving agency office>

**About Commander Johnson** – Wayne Johnson holds a Bachelor of Science in Political Science from West Chester State College and a Juris Doctor, cum laude from Mercer College as well as a Master of Laws from Tulane University Law School. Wayne served in the Army from 1975 to 1979 and was a commissioned ensign in the Navy in 1982 advancing to Commander in 1996. He served as Senior Defense Counsel & Chief Legal Assistance Attorney, Naval Legal Service Office, Pensacola, FL 1983-1985; the Staff Judge Advocate for the USS Canopus 1985-1987; as Military Law Instructor at the Naval Justice School, Newport, RI 1987-1989; and the Special Assistant for Legal Affairs at Naval Reserve Recruiting Command, New Orleans 1989-1999. Wayne retired in 1999 with 20 years of active military service. From 2005 to 2019, Wayne was employed by the Department of Health and Human Services, Office of the General Counsel, Ethics Division, Washington, DC.