

## **Number 26, June 2001: Use of Vacation for Military Service**

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Q: I recently graduated from law school, with a great student loan debt. I am trying to pay off my debt as quickly as possible. I am an Army Reservist, and I perform inactive duty training (IDT), active duty for training (ADT), and occasionally active duty for special work (ADSW). I can pay off my student debt more quickly if the money I receive for these periods of military service is in addition to, not instead of, the pay that I receive from my regular civilian job.

How will my military pay affect the pay that I receive from my full-time civilian job? Name withheld on request.

A: Typically, but by no means universally, Reservists perform IDT on weekends. Also typically, your civilian job does not require you to come in to work on weekends. If there is no conflict between your civilian job and your IDT, the pay that you receive for performing IDT should not affect the pay that you receive for your civilian job.

Your ADT and ADSW are in a different category. As I have explained in previous Law Review columns (all of which are available on ROA's Web site at [www.roa.org](http://www.roa.org)) the employer is not required to pay you for a period of time that you are away from work for service in the uniformed services (including training). The federal government and most state and local governments grant limited periods of paid military leave. In the private sector, it is unusual for an employer to grant paid military leave, but many private employers have voluntarily agreed to make up the difference in pay for a typical two-week ADT.

Q: My employer is not pleased that I'm in the Army Reserve, and has made it clear that my service will not be supported beyond that which is clearly required by law. I earn two weeks of vacation per year, and I almost never use it. At least until I get my student debt paid off, I would like to use my vacation for my typical two-week ADT. Does USERRA give me the right to use vacation in this way?

A: Yes. I invite your attention to Title 38, United States Code, Section 4316(d). That section provides: "Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service. No employer may require any such person to use vacation, annual, or similar leave with pay during such period of service." You can find the entire text of USERRA on the Web site of the National Committee for Employer Support of the Guard and Reserve, [www.esgr.org](http://www.esgr.org).

\*Note: Captain Wright's military title is used for purposes of identification only. The views expressed in this article should not be attributed to the Department of the Navy or the U.S. Government generally. You may write to

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