



# South Korean Military Consignment

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Every South Korean male is required to complete military service once he turns 18 years old. Growing up in South Korea, mandatory military service is always a hot topic. If a politician or celebrity avoided military service, it often made headlines. Well-connected people are frequently tempted to find avenues that excuse their sons from this requirement. Of course, there are legitimate reasons this requirement might be waived. For example, those unfit to handle harsh military training due to health conditions can perform another public service instead or have the requirement waived entirely. However, for a typical, healthy Korean male without good reason to waive this requirement, the regulation still applies whether they are in Korea or abroad.

We regularly get questions from Korean clients about how this affects those living in the U.S. In this post, I discuss how the Korean military service requirement impacts those looking to study or work in the U.S. who have not completed the requirement beforehand. As a U.S. immigration attorney, I am not an expert in Korean law. Thus, all information herein is for general education purposes only and does NOT serve as legal advice. However, we regularly collaborate with Korean military law experts to advise on navigating how to be compliant with this law.

The majority of South Koreans we encounter who are saddled by this requirement are students living in the U.S. South Koreans are notoriously passionate about achieving the highest degree from the very best school and many come to the U.S. to pursue a prestigious (often costly) degree in the U.S. Once they come to the U.S., they may not have clear future plans and assume they will return to South Korea once their studies complete. For international students looking to study in the U.S., this is a very good approach for obtaining a visa since U.S. immigration law only permits student visas to those who can demonstrate they do not intend to stay permanently in the U.S. Of course, things tend to change once a person has been studying and working in the U.S. for some time. The student may want to pursue more advanced degrees or receive a promising job offer or opportunity in their field of study or meet their love of life and want to call the U.S. home. At this point, the change of heart can make things complicated for their mandatory military requirements.

There are mechanisms in place to lengthen South Korean males' stay outside the U.S. without fulfilling their mandatory military service for those who are studying outside South Korea.

- If one is pursuing a 2-year master's degree, postponement is allowed until age 27.
- If one is pursuing a master's degree that lasts more than 2 years, postponement is allowed until age 28.
- If one is completing a medical school or doctorate degree, postponement is possible until age 29 (or 30 for a doctorate candidate if the degree is completed by the end of June of the year the person turns 30 years old).
- Green card holders who lived abroad for 3+ years, those who lived abroad for 5+ years with a parent, and those living abroad with green card holding parent(s) are eligible to postpone military service until the age of 37.

While Korean males can postpone their military service based on the above reasons, they have to obtain Overseas Travel Permit. Those under 25 who wish to leave Korea and remain abroad must obtain an Overseas Travel Permit for extended overseas travel between January 1<sup>st</sup> of the year, 24 years old, and January 15<sup>th</sup> of 25 years old. If they cannot return to the U.S. by the permitted period, they need to extend it further.

Legal consequences of not complying with these military law:

- If someone has an Overseas Travel Permit because they live outside Korea but then spend more than three months in Korea, the Permit is canceled, and they are required to complete the military service requirement.
- Those who violate the obligation of overseas travel permission, such as leaving the country without obtaining permission for overseas travel or not returning within the permitted period, are subject to imprisonment for up to 3 years.
- Evading Korean military service could lead to imprisonment under 5 years (typically 2-3 years), suspension of one's passport, or a fine of up to 2,000,000 won (approximately \$1,567). For a naturalized US citizen, this military service requirement goes away, but the Korean government must be notified by the individual that he is now a U.S. citizen and renounces his Korean citizenship.

## Sources:

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