

Policy:	Military Leave	Policy Reference and Revision Number:	HR 021 Rev 000
Department:	Human Resources	Effective Date:	08/01/2021
Authorized By:	SVP Human Resources	Page:	Page 1 of 4

PURPOSE

To grant short-term and long-term unpaid leave of absence for service in an approved military or federally designated agency upon request for applicable employees and establish guidelines for reinstatement upon return from such service.

POLICIES

1. BWC Terminals (the “**Company**”) will grant unpaid military leave of absence to any employee who requests such leave to report to active duty, active duty for training, initial active duty, inactive duty training, full time National Guard duty, an examination to determine fitness for such duty or performance of funeral honors duty, whether on a voluntary or involuntary basis (each a “**Service Duty**”), in the following organizations (collectively, the “**Uniformed Services**”) in compliance with the Uniformed Services Employment and Reemployment Rights Act (“**USERRA**”):
 - Army, Navy, Marine Corps or Air Force;
 - Coast Guard;
 - Army National Guard or Air National Guard;
 - Commissioned Corps of the Public Health Service;
 - National Disaster Medical System when activated to assist in a public health emergency, to be present for a short period of time when there is a risk of a public health emergency, or when they are participants in authorized training; or
 - Any category of persons designated by the President of the United States in time of war or national emergency.
2. The Company will re-employ those individuals that (i) provided advance notice of the requested leave, subject to an aggregate service length of five (5) years, (ii) are released from service under honorable conditions and (iii) either timely return from service or apply for reinstatement as applicable.

OTHER APPLICABLE STATE AND LOCAL LAWS

State laws may also provide, and the Company will grant for all employees in a work location whose state so provides, certain rights relative to requested leave for military service in addition to those provided under USERRA.

NOTICE OF LEAVE

- I. *Short-Term* (up to 2 weeks per calendar year)

Employees requesting short-term unpaid Uniformed Services leave are required to provide thirty (30) days prior written notice to their immediate supervisor with a copy to the Senior Vice President, Human Resources.

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II. *Long-Term* (over 2 weeks per calendar year)

Employees requesting long-term unpaid Uniformed Services leave are required to provide as much advance notice as possible to their supervisor, preferably in writing, with a copy to the Senior Vice President, Human Resources, unless such provision is impossible, unreasonable, or prohibited by military necessity by the U.S. Department of Defense.

COMPANY APPROVAL

No Company approval or permission is needed for an unpaid Uniformed Services leave of absence.

COMPENSATION AND BENEFITS DURING LEAVE

I. *Short-Term Uniformed Services Leave* (up to 2 weeks per calendar year)¹

- A. Individuals employed by the Company for less than six (6) months of service will receive only pay associated with Uniformed Services without additional compensation from the Company.
- B. Individuals employed by the Company for six (6) months of service or greater will receive (i) pay associated with Uniformed Services and (ii) an additional amount from the Company equal to the difference obtained by subtracting the pay associated with the Uniformed Services from their Company straight-time salary.
- C. All benefits will continue without interruption.

II. *Long-Term Uniformed Service Leave*

- A. Individuals employed by the Company will receive only pay associated with Uniformed Services, provided, however, accrued, unused vacation or PTO will be paid during said leave at the employee's request.
- B. All benefits are suspended until reinstatement, if applicable; provided, however, (i) participation in the medical and dental benefits are available after thirty (30) days of continuous leave for Uniformed Services at their own expense, for up to twenty-four (24) months or during the remaining period of Uniformed Services, whichever is shorter; (ii) basic life insurance may be converted to an individual policy effective as of the first day following the last day worked in which leave begins; provided further, however, no coverage is provided for death due to an act of war; and (iii) optional life insurance may be continued at the employee's sole cost and expense.
- C. Unused Paid Time Off (PTO) will be paid upon entry into the Uniformed Services, provided, however, the employee may defer said payment until the employee returns to work.

¹ Not required under the USERRA.

BWC Terminals Human Resources policies are subject to modification or revision in part or in their entirety to reflect changes in conditions after the effective date of the policy. Modifications or revisions will be made as soon as administratively feasible but will not delay the impact of any such changes.

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REINSTATEMENT

There are four (4) conditions for reemployment under USERRA (the “**USERRA Criteria**”):

- I. *Timely Notice.* The individual must have provided advance notice of the need for leave associated with Uniformed Services (where required).
- II. *Five Year Limit.* The individual’s cumulative period or periods of Uniformed Services, while employed by the Company, cannot have exceeded five (5) years; provided, however, Reserve and National Guard training and involuntary call-ups do not count toward the five-year limit.
- III. *Release from Service under Honorable Conditions.* The individual must have completed the period of Uniformed Services without having received a punitive or other than honorable discharge or having been dismissed or dropped from the rolls of the Uniformed Services.
- IV. *Timely Return or Application.*
 - A. Employees whose Uniformed Services will be up to and including thirty (30) days must report back to work at the beginning of the first full, regularly scheduled workday following completion of Uniformed Services, after allowing for a period of safe travel home and eight hours of rest.
 - B. Employees whose military service will be for thirty-one (31) or more days must apply for re-employment pursuant to the following schedule:

Uniformed Service	Application Deadline
Between 31 and 180 Days	Fourteenth (14 th) day after completion of Uniformed Services.
181 Days or More	Nineth (90 th) day after completion of Uniformed Services.

- C. Failure to return to work or to reapply within applicable time limits may result in loss of reemployment rights; provided, however, extensions for up to two (2) years for individuals that were hospitalized for or convalescing from an injury or illness that occurred or was aggravated during a period of Uniformed Services may be accommodated.

RE-EMPLOYMENT

- I. *Length of Service.*
 - A. For Uniformed Services less than ninety-one (91) days, the returning employee is entitled, upon reemployment, to the exact same job that they would have attained if they had been continuously employed. In most cases, that will be the same as the pre-service job.

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B. For Uniformed Services equal to or greater than ninety-one (91) days, the returning employee may be, at the Company’s option, reemployed in the position that they would have attained, or alternatively, in another position of like seniority, status, and rate of pay.

II. *Pay.* Upon reemployment, the employee will be entitled to continuous Company longevity for the entire period of military related absence.

III. *Benefit Programs*².

- A. Credited service for vesting and benefit calculation for portable retirement contribution is given for the duration of the leave if the employee meets the USERRA Criteria.
- B. Continuous plan membership for vesting purposes in the Company’s 401(k) plan is given for the duration of the leave if the employee meets the USERRA Criteria and make up contributions are allowed upon reemployment.
- C. Employees who were benefits-eligible at the start of leave and do not continue Medical, Dental, basic life or optional life insurance coverage are immediately eligible to re-enroll upon return from leave. Eligibility for reenrollment in the long-term disability and optional life insurance may be contingent upon a satisfactory Evidence of Insurability (EOI).
- D. If unused PTO was deferred upon entry into the Uniformed Services, returning employees will be paid upon returning to work and said time will be considered continuous service for determining future vacations.

CONFLICTS OF LAWS

To the extent that this policy conflicts with federal, state, and local laws, regulations or collective bargaining agreements, this policy shall, for application within the relevant jurisdiction, be deemed to be amended to comply with local laws, regulations or collective bargaining agreements.

² All terms and conditions of these plans are governed and controlled by the respective Plan Documents
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