

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

26 Aug 2021



Factory Information

FLA Affiliates	Branded Custom Sportswear, Inc, Nike, Inc
Country	Malaysia
Number of Workers	394

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Child Labor (CL)	1
Compensation (C)	3
Employment Relationship (ER)	4
Health, Safety And Environment (HSE)	9
Hours Of Work (HOW)	1
Nondiscrimination (ND)	1

Assessment Information

Assessor	OneStep Vietnam
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Assessment Date	26 Aug 2021
Assessment Purpose	Factory Assessment (Virtual Compliance Check)

ASSESSMENT RESULTS

Child Labor (CL)

Benchmark ID	CL.8.1
Benchmark Details	Employers shall collect and maintain all documentation necessary to confirm and verify date of birth of all workers, such as birth certificates.
Finding Details	The factory uses a canteen service provider to provide food for all employees. However, the factory cannot provide the employment contracts, age documentation of canteen staff during the past 12 months for review. The factory explained that all of the 5 canteen staff were more than 18 years old and the canteen service was a family business unit. Thus, the factory did not maintain documents from canteen staff such as employment contracts, age documentation.
Recommendation for Immediate Action	Ensure that factory has a system to follow compliance of working conditions of canteen workers including keeping records of contracts, age documentation.
Compliance Classifications	Immediate Action Required
Local Law	Employment Act 1955, Section 10 (1)

Compensation (C)

Benchmark ID	C.9.3
Benchmark Details	Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country

Finding Details	Based on attendance and payment records reviews and confirmation from factory management, there is one worker who had worked overtime after 16:00 for some days in February, March, and April 2021. However, the timekeeping system and payroll system did not calculate the overtime work and overtime payment for this worker in 3 months (from Feb to April 2021). For instance, the worker had the time-in/out on April 23, 2021 was from 7:24 to 16:52 (the official working hours is 7:30 – 16:00) and there was no overtime payment for this worker on this day (52 minutes). The factory management explained that the worker did not register the overtime work on the manual record and he also did not have the overtime approval in the system. Therefore, the factory did not have the source to pay the overtime payment for this worker.
Recommendation for Immediate Action	Ensure that actual working hours and records are followed by the factory instead of a manual registration and pay overtime premium to the workers based on the actual working hours.
Compliance Classifications	Immediate Action Required
Local Law	Employment Act 1955, Section 60A
Benchmark ID	C.17
Benchmark Details	Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to date.
Finding Details	The factory uses a canteen service provider to provide food for all employees. However, the factory cannot provide payroll records of canteen staff during the past 12 months for review. The factory explained that the canteen service was a family business unit. Thus, the factory did not maintain documents from canteen staff such as payroll records.
Recommendation for Immediate Action	Ensure that factory has a system to follow compliance of working conditions of canteen workers including keeping payroll records and relevant documents.
Compliance Classifications	Immediate Action Required

Local Law	Employment Act 1955, Section 10 (1)
Benchmark ID	C.3.1.3
Benchmark Details	Where probationary employment is legally allowed, no workers shall work more than three months in this employment category.
Finding Details	1- The factory applies two times of probation period (with 3 months for each) for those workers that didn't pass first 3-month probation. This exceeds FLA benchmark requirements which is 3 months although Malaysian law allows 2 times of 3-month probation, maximum up to 6 months. 2 out of 6 workers had probation period two times. The factory management explained that the factory would like to give employees who did not pass the first probation another chance instead of ending the employment relationship between the two parties. 2- In practice, it had been found that in first 3-month probation time exceeded 3 months for 1 out of 6 workers. Worker A joined the factory on 17th August 2020, and the first probation period (more than 3 months) was ended on 31st November 2020. It should be ended on 17th November 2020 instead.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Employment Relationship (ER)

Benchmark ID	ER.1.2
Benchmark Details	Employers shall assign responsibility for the administration of human resources to a clearly defined and adequately qualified staff member or staff members and ensure workers at all levels receive communication and training about existing policies and procedures or any revisions.

Finding Details	The factory does not provide ongoing training for workers including FLA Code of Conduct. The factory management explained that they were not aware of this FLA requirement.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.5.1
Benchmark Details	Employers shall ensure that all supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance.
Finding Details	FLA Code is not included in training for supervisors. The factory management explained that they were not aware of this FLA requirement.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Benchmark ID	ER.19.1
Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.

Finding Details	<p>1) Based on probation records reviews and confirmation from factory management, it is noted that the factory applies two times for the probationary period with 3 months as the duration for each time. However, the first probationary period is more than 3 months. For instance, the worker A joined factory on 17th August, 2020, the first probation period (more than 3 months) was ended on 31st November, 2020. It should be ended on 17th November, 2020 instead. Remark: According to the company policy, each time of probationary duration shall be within 3 months only.</p> <p>2) Based on probation records reviews and confirmation from factory management, it is noted that the factory applies two times for the probationary period with 3 months as the duration for each time. However, this practice is against the FLA Benchmark. The probationary period shall not be more than 3 months as required by FLA Benchmark. The factory management explained that the factory would like to give employees who did not pass the first probation another chance instead of ending the employment relationship between 2 parties. Remark: According to the company policy, each time of probationary duration shall be within 3 months only.</p>
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Benchmark ID	ER.3.1
Benchmark Details	Employers shall provide an orientation to new employees at the time of hiring, which includes explanations of the employers' rules, compensation package and policies for human resources, grievance systems, industrial relations, including respect of the right to freedom of association, workers' rights and responsibilities, FLA Code of Conduct, health and safety, and environmental protection.
Finding Details	FLA Code is not included in orientation training for all employees. The factory management explained that they were not aware of this FLA requirement.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Health, Safety And Environment (HSE)	
Benchmark ID	HSE.5.1
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.
Finding Details	The aisles in the parking area are not marked with directional signs and lines leading to the emergency exit doors.
Recommendation for Immediate Action	Ensure that all aisles are marked with directional signs and lines leading to the emergency exit doors.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.5.1.4
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations
Finding Details	The main aisle at the sewing area (on the ground floor) is partially obstructed by the sewing tables. The factory management stated that they just placed the sewing machines temporarily before transferring to the warehouse.

Recommendation for Immediate Action	Keep all exit aisles free from obstructions all the time.
Compliance Classifications	Immediate Action Required
Local Law	Factories and Machinery Act 1967 (revised - 1974), Section 13
Benchmark ID	HSE.9.1
Benchmark Details	All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards.
Finding Details	There are two chemical containers stored in the security room without secondary containment.
Recommendation for Immediate Action	Place all chemical containers in the secondary containment to prevent leakage.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.19
Benchmark Details	All facilities including workplace buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations.
Finding Details	The toilets are not provided with sanitary bin. The factory provides the normal bin instead.
Recommendation for Immediate Action	Provide the sanitary bin in the toilets to ensure hygiene safety.
Compliance Classifications	Immediate Action Required

Local Law	
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	1) One fire extinguisher is blocked by two chemical containers at the security room. 2) One first aid kit is locked and not readily assessable in the security room. In addition, one first aid at sewing production area (on the ground floor) lacks replenishing items as per the inventory list.
Recommendation for Immediate Action	1) Ensure that all fire extinguishers shall be free from any obstructions. 2) Ensure that all first aid kits shall be unlocked and accessible all the time. In addition, the first aid items shall be equipped sufficiently in the kit as legally required.
Compliance Classifications	Immediate Action Required
Local Law	1) Factories and Machinery Act 1967 (revised - 1974), Section 13 2) Factories and Machinery Act 1967 (revised - 1974), Section 25
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	1) A used standing fan (electronic waste) is stored in the same place as domestic waste, instead of being stored in the separate designated area. 2) A used sanitizer container (classified as hazardous waste) is not stored in the designated area. It is stored in the room which locates next to the canteen area.
Recommendation for Immediate Action	Store all the wastes according to their types (hazardous and non-hazardous) separately in the designated areas as legally required.
Compliance Classifications	Immediate Action Required

Local Law	1) Environmental Quality Act 1974, Section 51 2) Environmental Quality Act 1974, Section 51
Benchmark ID	HSE.8
Benchmark Details	Workers shall be provided with training on the use and maintenance of personal protective equipment. Training shall be upon hire with periodic refresher training offered to all workers. Management will ensure use of PPE as necessary.
Finding Details	Two workers at the packing area was not wearing appropriate Personal Protective Equipment (PPE), i.e. safety boots.
Recommendation for Immediate Action	Instruct workers to use personal protective equipment and closely monitor PPE usage of the workers
Compliance Classifications	Immediate Action Required
Local Law	Occupational Safety and Health Act 1994, Section 24
Benchmark ID	HSE.10.2
Benchmark Details	Workers shall have free access to MSDS.
Finding Details	There are two chemical containers stored in the security room without a safety data sheet (SDS).
Recommendation for Immediate Action	Ensure safety data sheet (SDS) of the chemicals are posted where they are used and stored.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.

Finding Details	Seventy percent (70%) of the chairs at the sewing area on the first floor do not have back-rest. In addition, the chairs at the sewing area on the ground floor and 30% of the chairs at the sewing area on the first floor have a back-rest. However, the height of the chair cannot be adjusted to fit with the worker's working position.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Hours Of Work (HOW)

Benchmark ID	HOW.22.3
Benchmark Details	Time worked by all workers, regardless of wage system, shall be fully documented by time cards or other mechanical or electronic recording systems.
Finding Details	The factory uses a canteen service provider to provide food for all employees. However, the factory cannot provide the time records of canteen staff during the past 12 months for review. The factory explained that the canteen service was a family business unit. Thus, the factory did not maintain documents from canteen staff such as time records.
Recommendation for Immediate Action	Ensure that factory has a system to follow compliance of working conditions of canteen workers including keeping working hours records and relevant documents.
Compliance Classifications	Immediate Action Required
Local Law	Employment Act 1955, Section 10 (1)

Nondiscrimination (ND)

Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	Child Labor Policy and Employment Policy of the factory state that the factory will not employ the candidate who is under 16 years old to prohibit child labor. However, between the age of 15 years and under the age of 18 years are considered as young workers as Malaysian Employment Act requirement and the factory should not prohibit the employment of young workers. The factory does not have young workers at the time of the assessment and the factory bases on one client's requirement to set the minimum working age.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Children and young persons (Employment) act 1966, Section 1A and 2

