

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**18 Oct 2021**



## Factory Information

FLA Affiliates	Herff Jones Inc
Country	China
Number of Workers	30

## 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

Compensation (C)	4
Employment Relationship (ER)	8
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	5
Hours Of Work (HOW)	4

## Assessment Information

Assessor	Openview- China Shenzhen
Assessment Date	18 Oct 2021

Assessment Purpose

Factory Assessment (In-Person)

## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The contribution base of the five types of social insurance is not in line with legal requirements. The factory contributes to the five types of social insurances based on CNY 3,427 (USD 527) per month, which is not in line with the legal requirement of contribution based on the worker's average monthly wage of the previous year. 80% of workers' average monthly wages of the previous year were higher than CNY 3,427 (USD 527), ranging from CNY 3,500 (USD 538) to CNY 5,000 (USD 769).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.8
Benchmark Details	All workers shall be credited with all-time worked for an employer for purposes of calculating length of service and determine the benefits to which workers are entitled.
Finding Details	The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law.

Recommendation for Immediate Action	Calculate annual leave based on worker's cumulative working experience (working age).
Compliance Classifications	Immediate Action Required
Local Law	Implementation Measures of workers' Paid Annual Leave, Article 4
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.
Finding Details	The factory does not provide social insurance to all eligible workers. There is a total of 41 workers in the factory, including six retired but re-recruited workers and four new hires. 31 workers are eligible for the social insurance contribution. The factory has provided 16 out of 31 eligible workers (52%) with five types of social insurances, including pension, work-related injury, medical, maternity and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 26 workers, which is valid from October 22, 2020 to October 21, 2021 and has a maximum benefit amount of CNY 100,000 (USD 15,385) per worker.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.

Finding Details	1. The factory pays termination payouts on the 30th day of the month, which is not in line with the legal requirement that termination payouts should be paid within five days upon contract termination. 2. The factory does not contribute to the Housing Provident Fund for any of the 31 eligible workers.
Recommendation for Immediate Action	1. Pay termination payouts within five days upon contact termination, as per legal requirements. 2. Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on the Payment of Wages in Zhejiang, Article 19; Regulations on Management of Housing Provident Fund, Article 15

### **Employment Relationship (ER)**

Benchmark ID	ER.2
Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory has not hired any disabled workers, which is in violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries the risk of discrimination based on FLA Workplace Code and Benchmarks.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	Nil
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policies or procedures managing retrenchment. There are policies on termination.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	The factory has not established written policies or procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

Benchmark ID	ER.7.1
Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	The factory has not established a performance review procedure or conducted performance reviews for any workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.8
Benchmark Details	Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements.
Finding Details	The factory has not established written procedures on promotion, demotion and job reassignment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
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	The factory has not received the Herff Jones (FLA-affiliated Company) Code, and as a result, has not communicated the Code to its workers or supervisors.
Recommendation for Immediate Action	Communicate Herff Jones (FLA-affiliated Company) Code to all workers and supervisors through training or posting the Code at the workplace.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The worker integration component is missing across all Employment Functions. Therefore, workers are not involved in the creation, implementation or updating of the factories' policies and procedures.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.18.4
Benchmark Details	The disciplinary system shall include a third party witness during imposition, and an appeal process.

Finding Details	The disciplinary system does not include a third party witness or an appeal process during imposition of any disciplinary actions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

### **Freedom Of Association And Collective Bargaining (FOA)**

Benchmark ID	FOA.10
Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.
Finding Details	<p>FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.</p>

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The transmission belts on two out of ten sewing machines are not fully enclosed by their pulley guards in the sewing workshop.
Recommendation for Immediate Action	Fully enclose the transmission belts on sewing machines with pulley guards.
Compliance Classifications	Immediate Action Required
Local Law	Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6
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	The factory does not post the contact information of medical response personnel.
Recommendation for Immediate Action	Post the contact information of medical response personnel throughout the factory.

Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.4.1
Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	1. The factory is operating on a leasing property, with a building area of 3,769 square meters and constructed in 2009. The factory has the property ownership certificate on file, however it does not have the fire control acceptance check report for the building. 2. The factory has never conducted any kind of assessment on occupational disease hazards since it moved to the current location in May 2016.
Recommendation for Immediate Action	1. Maintain the fire control acceptance check report for the production building. 2. Conduct assessment of current condition of occupational disease hazards and obtain valid reports.
Compliance Classifications	Immediate Action Required
Local Law	Fire Prevention Law of the People's Republic of China, Article 13; The Measures for Supervision and Administration of the "Three Simultaneities" for Occupational Disease Protection facilities at Construction Projects, Article 4
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. The factory has contracted a food service provider to deliver meals to its workers every day. The factory pays for the meals. However, the risk assessment does not cover food safety. 2. The factory does not post occupational hazards test results in the workshops where the hazards are present.
Recommendation for Immediate Action	1. Conduct risk assessment for food to ensure food safety. 2. Post occupational hazards test results in the workshops where the hazards are present.
Compliance Classifications	Immediate Action Required
Local Law	China Law of Prevention and Control of Occupational Diseases, Article 24
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	The factory does not take steps to reduce repetitive-motion stress or injuries. The factory does not provide chairs with armrests and backrests to workers working with sitting position or anti-fatigue mats to workers working with standing position.
Recommendation for Immediate Action	Provide chairs with armrests and backrests to workers working with sitting position and anti-fatigue mats to workers working with standing position.
Compliance Classifications	Immediate Action Required
Local Law	Nil
<b>Hours Of Work (HOW)</b>	
Benchmark ID	HOW.1.1

Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	Overtime hours exceed the legal limit of three hours per day and 36 hours per month. Time records for the period from October 2020 to October 15, 2021 and worker interviews indicate that about 10% of workers worked 3.5 overtime hours per day on 80% of the workdays in September and October 2021, and about 70% of workers worked more than 36 overtime hours per month in all reviewed months except February 2021, with a maximum of 96 overtime hours in September 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 41
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory production plan is based on 54 hours per week. Factory management sets production targets and the production system at a level that workers need to work 14 overtime hours (two overtime hours per day on three workdays and eight overtime hours on Saturday) per week.
Recommendation for Immediate Action	Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
Compliance Classifications	Immediate Action Required
Local Law	Nil

Benchmark ID	HOW.21
Benchmark Details	Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.
Finding Details	Total working hours exceed 60 per week. Time records for the period from October 2020 to October 15, 2021 and worker interviews indicate that weekly working hours for 70% of workers exceeded 60 and up to 73.5 hours in two to three weeks per month in all reviewed months except February 2021.
Recommendation for Immediate Action	Control total working hours do not exceed 60 in a week.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HOW.2
Benchmark Details	Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.
Finding Details	Workers are not provided with at least one day off in every seven-day work period. Time records for the period from October 2020 to October 15, 2021, and worker interviews indicate that about 10% of workers worked more than six consecutive days in September and October 2021, with a maximum of 14 consecutive days from September 6 to 19, 2021.
Recommendation for Immediate Action	Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
Compliance Classifications	Immediate Action Required
Local Law	Nil

