

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

09 Sep 2021



Factory Information

FLA Affiliates	Lululemon Athletica Inc.
Country	Peru
Number of Workers	1619

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

Employment Relationship (ER)	9
Health, Safety And Environment (HSE)	4
Nondiscrimination (ND)	1

Assessment Information

Assessor	VeLar International
Assessment Date	09 Sep 2021
Assessment Purpose	Factory Assessment (In-Person)

ASSESSMENT RESULTS

Employment Relationship (ER)

Benchmark ID	ER.11.2
Benchmark Details	Employers must ensure the following minimum terms and conditions are met in the employment of contract/contingent/migrant/temporary workers: Contract/contingent/migrant/temporary workers shall be provided an employment agreement in their native language setting out the employment terms and conditions. for migrant workers, a copy of their employment contract in their native language shall be provided prior to departure from their country of origin;
Finding Details	During the employee interviews, 95% of the employees declared they did not receive a copy of their labor contract. In addition, no evidence was presented from the factory that the labor contracts were given to employees.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Peruvian Labor Law D.L N°855 "Ley de productividad y competitividad laboral" supreme decree N° 003-97-TR, Chapter V Article 72
Benchmark ID	ER.17.1
Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.

Finding Details	1. While reviewing the grievance system records, it was noted that the complaint form established in February 15th 2021 requires employees' name, which eliminates the complainant's anonymity. In addition, the suggestion box is located at the factory entrance right in the scope of CCTV camera. 2. During employee interviews it was confirmed that employees are not familiar with the grievance system protocol.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.1
Benchmark Details	Employers shall have written disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination).
Finding Details	The Internal Rules Handbook presented by the factory was updated in 2015. However, the law was modified in 2016 and 2017 and the Internal Rules Handbook has not been updated in accordance. This year the factory is in the process of renewing the Internal Rules Handbook considering these updates, however, due to the pandemic the local authority has delayed the document approval.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Peruvian Law D.S. N 039-91-TR (12/31/1991) article 4th;
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 did not present policies or evidence that employees are provided with ongoing training to develop their skills at work and apply for better positions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 does not have policies or evidence that employees are subjected to development evaluations on a periodic basis. Also, there is no written protocol that specify that these evaluations will be carried out, when they would be carried out, by whom, or how the factory will ensure equality and nondiscrimination.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	1. During the payroll records review it was not possible to verify the production bonus calculation during all selected periods, since the factory only keeps production records for 45 days. Employees complete and deliver their production records to the supervisor. Based on these records, the management fills in an excel file that is used by the payroll department to calculate employees' payment. However, after 45 days the production records are destroyed and only the excel file is kept. For that reason, auditors were not able to confirm that the production bonus calculation was accurate for the selected periods of May 2021 and November 2020. Only the records for August 2021 were available for review and it was confirmed the bonus was paid correctly for this period. 2. The civil defense technical inspection certificate was not updated for this year.
Recommendation for Immediate Action	1. Keep all records, including production records, for at least twelve months, or digitize these records before destruction. 2. Obtain the updated civil defense technical inspection certificate which is required on an annual basis.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 30619 Law's modification 28976.
Benchmark ID	ER.10.2
Benchmark Details	Employers shall not renew contracts for multiple successive short-terms in lieu of providing regular employment.
Finding Details	It was noted that the labor contracts are renewed every two months, no matter how much time the worker has in the factory. For instance, there are employees with 20 years and other with 6 months and both sign contracts every two months.
Recommendation for Immediate Action	Ensure to provide permanent employment contracts to workers.

Compliance Classifications	Immediate Action Required
Local Law	
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	1. Company policies are not subjected to management revision and has not been updated since it was created. 2. Based on local legal requirements, the factory has an anti-harassment committee with employees' and employer representation. Employees freely elected their representative for this committee, however, there is no evidence that this representative has been involved in the Committee activities including the risk assessment for the working place.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.2
Benchmark Details	There shall be a mechanism that allows workers to report harassment and grievances confidentially, including any concerns or problems they may be experiencing around legally owed payments during a retrenchment process.
Finding Details	The factory has a retrenchment procedure in place; however this protocol does not include a confidential channel for employees to raise concerns or complaints about their final payments.
Recommendation for Immediate Action	

Compliance Classifications	Sustainable Improvement Required
Local Law	
Health, Safety And Environment (HSE)	
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	In the steam generators area, it was noted one acetylene tank and one oxygen tank is stored together, when it is required to store these tanks in separate areas.
Recommendation for Immediate Action	Store welding cylinders containing acetylene and oxygen separately according to local regulations.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 42F Article 265 point a.
Benchmark ID	HSE.14.3
Benchmark Details	Employers shall ensure safety instructions are either displayed or posted near all machinery or are readily accessible to the workers in language(s) spoken by workers.
Finding Details	During the inspection, it was noted that the imported equipment in the weaving area was not aligned with the local regulation for electrical signs; in addition, the equipment's signs are too small to read.
Recommendation for Immediate Action	Ensure all equipment in the weaving area has electrical hazard signs in accordance with the local regulation and is readable.

Compliance Classifications	Immediate Action Required
Local Law	Peruvian Technical Norm 399.010-1 2004: Security Signs.
Benchmark ID	HSE.7
Benchmark Details	Workers shall be provided at no cost with all the appropriate and necessary personal protective equipment (e.g. gloves, eye protection, hearing protection, respiratory protection) to effectively prevent unsafe exposure (e.g. inhalation or contact with solvent vapors, noise, dust) to health and safety hazards, including medical waste.
Finding Details	During the inspection it was noted that employees from the dry-cleaning area were using filter masks without adequate maintenance measures and the filters were no longer completing their protective function.
Recommendation for Immediate Action	Provide clean filters and change the current filters as they do not guarantee adequate protection to workers.
Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783, Artículos 27, 49, 50, 55, 69.
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	Records review and employee interviews confirmed that employees in the dry-cleaning area have not been instructed or provided with training in the correct use and care of the filters to guarantee their functionality.
Recommendation for Immediate Action	Train workers about use and care of the filters so that they use them correctly, maintain them correctly and dispose of them correctly.

Compliance Classifications	Immediate Action Required
Local Law	Peruvian Law 29783, Artículos 27, 49, 50, 55, 69.
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	The factory does not have policies or procedures on hiring aspirants younger than 18 years, even when working age allowed by law is 15 years. This affects aspirants possibilities to obtain a job based on its condition (in this case their age) and not their knowledge, skills or development.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

