

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

21 Oct 2021



Factory Information

FLA Affiliates	Fanatics Apparel LLC
Country	Guatemala
Number of Workers	335

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

FLA Code Element	Number of Violations
Compensation (C)	1
Employment Relationship (ER)	3
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	6
Hours Of Work (HOW)	1

Assessment Information

Assessor	Francisco Chicas
Assessment Date	21 Oct 2021

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

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	<p>1) The factory has not established a childcare facility at the facility as legally required. In addition, the factory has not signed an agreement with an external childcare center for workers to use their services instead. 2) Between May 18 and July 24, 2020, workers left the factory premises earlier than the regular ending time on 54 occasions due to the curfews ordered by the Guatemalan Government to handle the pandemic, making a total of 66 regular working hours. The factory paid the workers for these hours, despite them not being working hours. Between July 31, 2020 and Feb 04, 2021 the factory required workers to stay one overtime hour on different workdays to compensate for the 66 hours paid and that were not worked during May, June, and July 2020. However, based on legal requirements, the premium of 1 overtime hour in Guatemala should be at least 1.5 times the value of one regular hour of work. Based on this legal premium, the 66 regular hours of work should have been compensated to the proportional value of the overtime hours, which means that workers should have worked 44 overtime hours, instead of 66.</p>
Recommendation for Immediate Action	1) Compensate workers, either with payment or time off, the 22 regular hours of work they worked in excess of the time they should have compensated, for being paid hours not worked during the 2020 Covid-19 pandemic.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, Article 121; Labor Code, Article 155.

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 provides orientation training for new workers and ongoing worker training that includes freedom of association and collective bargaining. However, based on worker interviews, the majority of workers were not aware of these rights. A few workers even thought that participating in unions was prohibited. The assessors did not find evidence that factory management spreads negative messages to workers around freedom of association.
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	Based on records review, three out of 35 sampled workers' performance reviews have mistakes when calculating the final grade: the total points assigned were lower than the score workers should have been assigned. Moreover, two performance reviews did not have the final grade. The assessors did not find evidence that these mistakes had any negative impact on workers (e.g., in cases of promotion decisions); and they are the result of the supervisors' oversight.

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	The factory does not have the applicable the health license for the clinic that operates onsite.
Recommendation for Immediate Action	Obtaining the permit for clinic operation.
Compliance Classifications	Immediate Action Required
Local Law	Health Code, Article 121.
Harassment Or Abuse (H/A)	
Benchmark ID	H/A.10.1.3
Benchmark Details	Body searches shall not be undertaken in public and the person who undertakes the search shall be of the same sex as the person who is being searched.
Finding Details	All workers are subjected to pat-downs every time they enter or leave the production floor, including during lunch breaks. This procedure is implemented with gender segregation: female guards for female workers and male guards for male workers; although it is not performed in private.

Recommendation for Immediate Action	Body searches and physical pat downs shall only be undertaken when there is a specific, legitimate reason to do so and upon consent of workers, unless a state official with the power to do so (e.g. police officer) has ordered the search. Body searches shall not be undertaken in public.
Compliance Classifications	Immediate Action Required
Local Law	

Health, Safety And Environment (HSE)

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	During the observation tour, assessors noted that the only hand dryer available at the entrance restrooms was not working. The factory did not know when the hand dryer was broken.
Recommendation for Immediate Action	Repair the broken hand dryer and regularly monitor the functionality of thees machines. Note: the factory repaired the dryer during the onsite assessment.
Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Art. 292.
Benchmark ID	HSE.13
Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.

Finding Details	1. The assessors found one worker operating a thread-winding machine without hearing protection at the Sewing Department; the machine was noisy but the factory has not assessed whether the noise levels are under the legal limits. As a result, the factory has not determined whether the worker should be wearing hearing protection or not. 2. At the time of the observation, there was no ventilation system in the male restrooms of the production floor: the only air extractor available was not working and the four available windows in the area were closed. During the onsite assessment, the factory opened the windows to improve ventilation.
Recommendation for Immediate Action	1) Assess whether the worker operating a thread-winding machine requires the use of hearing protection; and if so, provide the relevant PPE. 2) Ensure that there is a functional ventilation system at the male restroom.
Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Arts. 182, 191 and 192. Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Art. 295.
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	Stored boxes at Finished Product Warehouse almost reach the roof lamps. Local regulations require that there is at least 90 cm (35.43 inches) between the last stored material and the roof. The highest stored boxes had a distance of 6 inches from the roof lamps.
Recommendation for Immediate Action	Ensure that there is a free space of at least 90 cm between the roof lamps and the stored material at the Finished Product Warehouse.
Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Art. 98.

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	See finding ER.19.1
Recommendation for Immediate Action	Obtain the permit for clinic operation.
Compliance Classifications	Immediate Action Required
Local Law	Health Code, Article 121.
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. Based on the last residual water assessment from January 2021, the factory is out of compliance with the following legal limits for residual water discharge: total phosphorus, total nitrogen, and fecal coliforms. In June 2021, the factory built a wastewater treatment plant, and the first sample of residual water for testing the wastewater treatment plant operation was taken in the same week of the onsite assessment; the results of the tests were not available at the time of the assessment. 2. The factory does not provide training to the Health & Safety Committee members on the identification of occupational risks, so they cannot properly execute their functions as Committee members.
Recommendation for Immediate Action	Ensure that the next residual water test is in compliance with local laws.
Compliance Classifications	Immediate Action Required

Local Law	Regulations of Residual Water Discharge and Reuse and Disposition of Sludge, Articles 28 and 29. Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Art. 5 sections b) and g).
Benchmark ID	HSE.30.2.6
Benchmark Details	The health, safety, and environmental policies shall contain the framework for a comprehensive health, safety, and environmental management system including a HS&E risk assessment within which the following are clear and regularly tested and reviewed: protections to workers who allege health, safety, and environmental violations;
Finding Details	The metal bars used as axels to spread the fabric rolls at four cutting tables do not fit inside the space limits assigned to each cutting table. Each metal bar is exposed approximately 13 inches over the exit aisles at each side of each cutting table. This presents a potential risk for workers who are approximately 1.73 meters or taller (5 feet, 8 inches) to hit their head or face when walking inside aisles or exiting the building in case of an emergency.
Recommendation for Immediate Action	Add signalization at the metal bars used as axels to spread fabric rolls to warn workers of the risk of injury. Note: the factory added signalization at the metal bars used to spread fabric rolls at Cutting to indicate the risk of injury.
Compliance Classifications	Immediate Action Required
Local Law	Occupational Health and Safety Regulations (Governmental Decree N° 229-2014), Art. 4.

Hours Of Work (HOW)

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	See the second finding in C.1.1.

Recommendation for Immediate Action	Compensate workers, either with payment or time off, the 22 regular hours of work they worked in excess of the time they should have compensated, for being paid hours not worked during the 2020 Covid-19 pandemic.
Compliance Classifications	Immediate Action Required
Local Law	Labor Code, Article 121.

