



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Lakeshirts

COUNTRY: China

ASSESSMENT DATE: 8/11/2020

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 500

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not take worker's external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6]

2. The factory does not provide social insurance to all eligible workers. There are total 570 workers working in the factory, including 84 workers over the retirement age. The factory only provided 347 out of 486 eligible workers (71.4%) with pension, unemployment, medical and maternity insurances, 401 out of 486 eligible workers (82.5%) with work-related injury insurance in the latest payment month of July 2020. The factory also purchases commercial injury insurance for 171 workers, valid from November 1, 2019 to October 31, 2020 with compensation amount of CNY 60,000 (USD 8,666) per person. [C.1]

3. The factory has not consulted with workers before arranging for them to take five days of annual leave during Chinese New Year Holiday. [HOW.12.2]

4. The factory has set up a policy and procedure on pregnant worker protection. But the factory has not provided prenatal care leave to either of the two pregnant workers. Pregnant workers are unaware of this benefit and all of their prenatal care is scheduled during weekends. [ND.8.1]

5. The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on local minimum requirement of CNY 3,815 (USD 555) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. About 60% of worker's average monthly wages of previous year were higher than local minimum contribution base, ranging from CNY 3,816 (USD 556) to CNY 8,000 (USD 1,164). [C.10.1]

6. The factory does not contribute to the legally required Housing Provident Fund for eligible workers. [ER.22.1]

Local Law or Code Requirement

Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; The China Labor Law, Article 72; Special Rules on the Labor Protection of Female Employees, Article 6; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1, C.6 and C.10; Hours of Work Benchmark HOW.12; Non-discrimination Benchmark ND.8; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).
2. Provide social insurance to all eligible workers.

3. Consult with workers before determining the time at which annual leave is taken. Provide training so that workers are aware that they can take annual leave any time throughout the year except during CNY holiday.
4. Provide prenatal care leave to pregnant workers as per legal requirement.
5. Contribute to social insurance based on worker's average monthly wage of previous year.
6. Provide all workers with legally required Housing Provident Fund.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Overtime hours exceed legal limit of 36 hours per month. Time records for the period from July 2019 to July 2020 indicate that the monthly overtime for about 90% of workers exceeded 36 hours in all reviewed months except February and March 2020, with a maximum of 95.5 overtime hours in September 2019. [HOW.1.1]
2. Total working hours exceed 60 per week. Time records for the period from July 2019 to July 2020 indicate that the weekly working hours for about 80% of workers exceeded 60 hours in one to three weeks per month in all reviewed months except February, March and April 2020, with a maximum of 65 hours in December 2019. [HOW.1.3]
3. Workers are not provided with one day off for every seven-day work period. Time records for the period from July 2019 to July 2020 indicate that about 80% of workers worked more than six consecutive days for once or twice per month in all reviewed months except February, March and April 2020, with a maximum of 27 consecutive days in July 2020. [HOW.2]
4. The factory production plan is based on 48-62 hours per week. Factory management sets production targets and production system at a level that workers need to work eight to twenty-two overtime hours per week. [ER.24]

Local Law or Code Requirement

The China Labor Law, Article 38 and 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.2)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed legal limit of 36 hours per month.
2. Control total working hours do not exceed 60 in a week.
3. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
4. Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
5. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
 - 1) implement FLA Principles of Fair Labor and Responsible Sourcing and
 - 2) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality
 - c. Clear guidelines on how to extend shipment deadlines in case of contingencies
 - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams)
 - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks

- f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. All nine union representatives were appointed by factory management on August 7, 2018. The Chairman of the union is Vice President, and the Vice Chairman of the union is Production Vice President. [FOA.11]
2. The Collective Bargaining Agreement (CBA) does not provide any additional benefits to workers and simply restates the factory procedures and legal requirements. None of workers are provided with a copy of the CBA and none of the interviewed workers are aware of the CBA. [ER.16.2]
3. FLA Comments: 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 member's 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. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.11; Employment Relationship Benchmark ER.16)

Recommendations for Immediate Action

1. Ensure union chairman and representatives are freely elected by all workers.
2. Provide workers with a copy of the CBA.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health and Safety

Finding Explanation

1. The fire alarms in production and dormitory buildings are not centralized. [HSE.5.1]
2. Two barrels of lubricant are placed in the storage area with no secondary containment. [HSE.9.1]
3. The factory provides masks to trimming workers with hazardous exposure to dust. However, none of the trimming workers are wearing masks during working hours. [HSE.8]
4. The factory has not recorded any work-related injuries including minor injury and near miss in the past 12 months. [HSE.3.1]
5. The factory has never conducted an inspection for the lightning protection system in both production and dormitory buildings. [HSE.13]
6. The factory does not provide pre-job or post-job occupational health examination to workers in embroidery and yarning workshops with hazardous exposure to high level of noise. [HSE.1]

Local Law or Code Requirement

The Regulation for Safety of Dangerous Chemical, Article 20; The Law of the China on Work Safety, Article 42; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The PRC Law of Prevention and Control of Occupational Diseases, Article 35. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.3, HSE.5, HSE.8, HSE.9 and HSE.13)

Recommendations for Immediate Action

1. Install centralized fire alarm system in the factory.
2. Provide secondary containment for chemical containers.
3. Train and supervise workers to use personal protective equipment (PPE) consistently during working hours.
4. Track work-related injury including minor injury and near miss and maintain work-related injury records for at least 12 months.
5. Conduct annual inspection for the lightning protection system and maintain inspection reports.
6. Provide pre-job and post-job occupational health examination to eligible workers with hazardous exposure.