

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**18 Aug 2022**



## Factory Information

FLA Affiliates	Lululemon Athletica Inc.
Country	Vietnam
Number of Workers	1371

## 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)	10
Freedom Of Association And Collective Bargaining (FOA)	2
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	10
Hours Of Work (HOW)	1

## Assessment Information

Assessor	Openview - Vietnam
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Assessment Date	18 Aug 2022
Assessment Purpose	Factory Assessment (In-Person)

## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly

<p>Finding Details</p>	<p>1. Worker skillful and attendance allowances are not sufficiently provided according to the wage &amp; benefit policy issued on December 30, 2020 and June 30, 2022: a. According to the wage &amp; benefit policy, workers from cutting, punching, sewing, ironing, packing, embroidering, weaving, inspecting sections and warehouse are provided with a skillful allowance equal to VND100,000-VND600,000/month based on the results of the skill test. However, no worker from inspecting section of semi-products is provided with this skill allowance; at least 10 workers from the sewing, embroidering, and packing sections who joined the factory since March 2022 are also not considered and provided for skillful allowance. The wage &amp; benefit policy does not clearly specify workers from which sections should undergo the skill test and/ or specific time to review and provide the skillful allowance to relevant workers. The skill test evaluation does not have rating scales and criteria for different grade from VND100,000 to VND600,000. The skill evaluation is now just based on comments of the line leaders. b. According to the wage &amp; benefit policy, workers who work full month will fully receive attendance allowance equal to VND300,000. Workers who come late from one minute to four hours or take up to eight hours of sick leave/unpaid leave in a month would receive from 30% to 70% of attendance allowance. Workers who take more than eight hours of unpaid leave are not provided with an attendance allowance. However, the factory does not regulate the minimum working days in a month in order to receive the attendance allowance. Therefore, sample selected workers (new workers) who do not work full month are not provided with attendant allowances, even they are not late for work or take unpaid or sick leave. 2. According to the wage &amp; benefit policy issued on December 30, 2020 and June 30, 2022, all members of the first aid team would receive responsibility allowance equal to VND50,000 per month. However, there are at least three out of 24 first aiders are not provided with the responsibility allowance as per factory policy.</p>
<p>Recommendation for Immediate Action</p>	<p>(1) Develop a comprehensive wage and benefit policy which has detailed criteria for requirement, evaluation, allowance levels, train and apply to all workers accordingly. (2) Provide allowance to all first aid members as per factory policy.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>

Local Law	The Labor Code 2019, Article 103.
<b>Employment Relationship (ER)</b>	
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 ongoing training for workers does not cover Recruitment, Hiring, & Personnel Development and Termination & Retrenchment.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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	There is no specific training conducted for relevant supervisors on FLA's Code elements and employment functions.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

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	1. The interview form No. 06/HR/ASI requires checking the personal documentation of workers to verify age of workers. However, records showed that this policy is not followed by the recruitment staff during the hiring process. The relevant age records such as photos, ID card, family books are not double checked. 2. The policy on non-discrimination was established and updated on January 01, 2022. The prohibition statements mention the prohibition in discrimination of race, religion, political opinion, marital status, disability, HIV/AIDS infection, pregnancy, gender, age, social group, and ethnic origin, however does not cover sexual orientation and nationality discrimination. 3. There is no procedure in place to handle the cases of discrimination found in the factory, including steps to discipline for the violations related to non-discrimination policy. 4. There is no procedure in place to handle the cases of forced labor found in the factory, including the steps to discipline for the violations related to forced labor policy.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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 labor discipline is not handled following the factory regulation: There is a female worker from the production line who are disciplined with form of deferment of pay rise for 6 months due to leaving the factory without turning off the machine, the disciplinary records show violation of “not following policies on occupational safety”. According to factory approved labor rules, this worker should receive disciplinary of warning only, not deferment of pay rise for 6 months.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	The Labor Code 2019, Article 122.
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 developed and implemented policy and 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	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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	There is a policy on performance reviews (No. ASI-CSR-HR-013) with the latest update on March 01, 2022. However, this policy is to evaluate workers after the probationary period and evaluate the workers for renewing the labor contracts. The policy does not include the performance review which links to job grading, nondiscrimination, and written feedback of worker for evaluation of wage and benefits. The factory has not developed procedure included steps and processes to conduct the performance review.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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 promotion and demotion policy is established. However, the factory has not developed specific procedure to outline how employees are evaluated for promotion and demotion, how to reassign workers' jobs with required steps, responsible person, criteria, time frame, frequency of evaluation and types of records used for the process.
Recommendation for Immediate Action	N/A

Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
Benchmark ID	ER.4
Benchmark Details	Employers shall inform workers about workplace rules, environmental protection systems, health and safety information, and laws regarding workers' rights with respect to freedom of association, compensation, working hours, and any other legally required information, and the FLA Code through appropriate means, including posted in local language(s) throughout the workplace's common areas.
Finding Details	The factory reports that the communication on FLA's code elements is carried out regularly. However, interviewed workers do not clearly know about the FLA's Code Elements.
Recommendation for Immediate Action	N/A
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	The orientation training for new workers does not include all FLA's code elements, and FLA's Employments functions. The training does not cover Recruitment, Hiring, & Personnel Development, Termination and Retrenchments, Industrial relations, Workplace Conduct, and Disciplinary and Grievance systems.

Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A
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. There are no policies and procedures on the regular management review. Most policies and procedures are individually reviewed by the responsible person. There are no records and data in place to prove that the factory conducted the comprehensive review for all related policies and procedures. 2. Workers are not consulted or integrated into the decision-making process of aspects concerning workplace and working conditions. The factory policies and procedures are established by the social compliance team, HR, and HSE team without consultation or integration from workers.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

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

Benchmark ID	FOA.1.1
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Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning freedom of association and collective bargaining. national laws, rules, and procedures protecting the rights of workers to organize and bargain collectively. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	<p>1. Factory does not follow the internal democratic regulations and relevant policies to organize annual worker dialogue/conference in 2021 and 2022. The time, number of participants, content of worker dialogue/conference and election activity are not strictly following the internal democratic regulations and worker dialogue policy issued on December 31, 2020: - The dialogue time of worker was conducted in Quarter 2 instead of Quarter 4 of each year as mentioned in internal democratic regulations and policy. - The representatives of accounting and finance department did not join the worker dialogue/conference as mentioned in internal democratic regulations and worker conference policy. - The content on working conditions and measures to improve working conditions are not communicated to workers during the meeting. - The activities of worker representative election is not conducted in worker conference/dialogue as mentioned in internal democratic regulations and worker reference policy.</p> <p>2. Factory does not ensure to follow up suggestions from worker representatives raised in the periodic dialogue and made it available to the workers. In addition, the records of periodic dialogue do not have the signature of attendees as required by the law.</p>
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Decree 145/2020/NĐ-CP, Article 41 & 47
Benchmark ID	FOA.2

Benchmark Details	Workers, without distinction whatsoever, shall have the right to establish and to join organizations of their own choosing, subject only to the rules of the organization concerned, without previous authorization. The right to freedom of association begins at the time that workers seeks employment and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers.
Finding Details	Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with a single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that “the rights of workers to establish organizations of their own choosing implies... the effective possibility of forming... [trade unions] independent both of those which exist already and of any political party.” Vietnam’s legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil

### Harassment Or Abuse (H/A)

Benchmark ID	H/A.8.3
Benchmark Details	Employers, shall develop, implement and monitor policy and procedures for eliminating the risk of violence, harassment, and abuse in the workplace. Policies and procedures shall include a clear statement that violence, harassment, and abuse will not be tolerated, procedures for the investigation of allegations, and measures to protect any complainants, victims, and witnesses.

Finding Details	The factory has not developed specific regulation and procedure to discipline supervisors, managers, and workers who engage in any form of harassment and abuse. There is only the regulation for disciplinary on sexual harassment indicated in the factory internal labor rules.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	N/A

### 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	Waste batteries and empty paint containers in the waste storage areas are not clearly sorted by types, not identified nor labeled with hazardous codes as required by law.
Recommendation for Immediate Action	Clearly sort hazardous waste by its types, identify and label with proper identification labels and hazardous codes.
Compliance Classifications	Immediate Action Required
Local Law	No. 72/2020/QH14, Article 83; Decree No. 08/2022/ND-CP, Article 68
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.

<p>Finding Details</p>	<p>1. There is no automatic safety sensor for laser cutting machines to prevent the safety cover being opened while operation. Based on the factory tour, the safety covers for two observed laser cutting machines were open while machines are operated. 2. The factory has established a LOTO (Lock-out and Tag-out) program for equipment and machines, but there is no list of machines and equipment that must be locked and tagged during maintenance or repair. There is no air valve lockout device for maintenance of the air-compressed system. In addition, the factory does not keep issuance - return logbooks of LOTO devices to relevant personnel (20 mechanics and electricians).</p>
<p>Recommendation for Immediate Action</p>	<p>1. Install automatic safety sensor for safety cover of laser cutting machines. 2. Establish the list of machines and equipment that must be locked and tagged during maintenance or repair, maintain issuance - return logbook of LOTO devices, and use the air valve lockout device for maintenance of the air-compressed system for safety of workers.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>1. Law No. 84/2015/QH13, Art. 16 2. Decision 959/QD-EVN, Art. 9; Law No. 84/2015/QH13, Art. 16</p>
<p>Benchmark ID</p>	<p>HSE.6.1</p>
<p>Benchmark Details</p>	<p>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.</p>
<p>Finding Details</p>	<p>The factory does not have an emergency shower at the chemical storage warehouse. Meanwhile, the eyewash device is about 20 meters away from the chemical storage warehouse instead of within 10 meters as per law. In addition, there are no emergency shower and eyewash station at two battery charging stations at the material warehouse and finished goods warehouse.</p>
<p>Recommendation for Immediate Action</p>	<p>Ensure to install the emergency shower and eyewash stations within 10 meters from the chemical areas as required by law.</p>

Compliance Classifications	Immediate Action Required
Local Law	Law No. 06/2007/QH12, Art. 29, Art. 37; QCVN 05:2020/BCT, Clause 5.9, Clause 7.2
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	The factory does not have any plan for phasing-out controlled ODSs (Ozone-depleting substances) such as HCFC 22 (Hydrochlorofluorocarbons 22) for used for chiller next to finished goods warehouse.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Decree No. 06/2022/NĐ-CP, Article 22(2d)
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	There is no chemical hazard sign, electrical hazard sign and authorized access sign at two observed battery charging stations in the material warehouse and finished goods warehouses. Additionally, there is no standard operating procedure posted including safety instructions in these areas.
Recommendation for Immediate Action	Post standard operating procedures, chemical hazard sign, electrical hazard sign, and authorized access sign at the battery charging stations.
Compliance Classifications	Immediate Action Required



Local Law	Law No. 84/2015/QH13, Art. 16; QCVN 05:2020/BCT, Clause 2.3
Benchmark ID	HSE.29
Benchmark Details	Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.
Finding Details	1. There is no hazard warning sign, or authorized access signs for all observed confined spaces such as water tanks and sewers in the factory. 2. There are no fall hazard warning signs, or authorized access signs posted in place for high platforms such as wheel ladder, potable ladder at the accessories warehouse and maintenance workshops.
Recommendation for Immediate Action	1. Post hazard warning signs, and authorized access signs to all observed confined spaces. 2. Post warning signs of a fall hazard, and authorized access signs for high platforms at the accessories warehouse, and maintenance workshop.
Compliance Classifications	Immediate Action Required
Local Law	1. QCVN 34:2018/BLDTBXH, Clause 2.2.3 2. Law No. 84/2015/QH13, Art. 16
Benchmark ID	HSE.18.2
Benchmark Details	Medical staff shall be fully licensed and recognized under applicable national rules and regulations.
Finding Details	Two medical staffs working in the factory do not have occupational health certificate as being required by law.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Circular No. 29/2021/TT-BYT, Article 2

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 factory's OHS (occupational health and safety) risk assessment does not include physical and health hazards associated with the adhesive spray room, and battery charging stations in the factory.
Recommendation for Immediate Action	N/A
Compliance Classifications	Sustainable Improvement Required
Local Law	Law No. 84/2015/QH13, Art. 7; Circular No. 07/2016/TT-BLDTBXH, Art. 3; Circular No. 07/2016/TT-BLDTBXH, Art. 3
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	1. The factory does not have suitable PPE (personal protection equipment) such as UV glasses, gloves and blouses to protect workers working with UV radiation sources (UV disinfection conveyors) at finishing workshops as per OHS risk assessment. 2. There is no inspection record kept in place for wheel ladders, portable ladders and fall protection equipment (helmet, body harness) in the accessories warehouse and maintenance workshops.
Recommendation for Immediate Action	1. Provide suitable PPE to workers working with the UV radiation source as per OHS risk assessment. 2. Conduct regular safety inspections of all ladders and fall protection equipment.

Compliance Classifications	Immediate Action Required
Local Law	1. Law No. 84/2015/QH13, Art. 7; Circular No. 04/2014/TT-BLDTBXH, Art. 5, 6 2. Law No. 84/2015/QH13, Art. 16
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	The PPE (personal protection equipment) is not consistently and effectively used by the workers in the laser cutting room. Laser cutting operator does not wear glasses while working as being required.
Recommendation for Immediate Action	Ensure the laser cutting operators wears glasses while working.
Compliance Classifications	Immediate Action Required
Local Law	Circular No. 04/2014/TT-BLDTBXH, Article 6
<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	The factory pays workers for untaken annual leaves from previous year instead of arranging workers to take all annual leaves within one year, as required by the FLA Workplace Code.
Recommendation for Immediate Action	Establish a mechanism to arrange workers to take all annual leave days as a priority instead of payment to workers for not taking annual leave.

Compliance Classifications	Immediate Action Required
Local Law	Nil

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