

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**24 Jul 2023**



## Factory Information

FLA Affiliates	Lululemon Athletica Inc.
Country	Peru
Number of Workers	229

## 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
Employment Relationship (ER)	12
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	5
Nondiscrimination (ND)	1

## Assessment Information

Assessor	VeLar International
Assessment Date	24 Jul 2023
Assessment Purpose	



## ASSESSMENT RESULTS

### Employment Relationship (ER)

Benchmark ID	ER.17.5
Benchmark Details	Employers shall have in place procedures to track the number, types, and timing and resolution of grievances, and to communicate the resolution of grievances to the workforce.
Finding Details	There is no procedure to track the number, types, and timing and resolution of grievances. No evidence of the management reviewing complaints and grievances and taking appropriate action.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.9.3
Benchmark Details	Contract/contingent/temporary workers shall only be hired if one of the following conditions is met the permanent workforce of the enterprise is not sufficient to meet unexpected or unusually large volume of orders, exceptional circumstances* may result in great financial loss to the supplier if delivery of goods cannot be met on time, or work that needs to be done and is outside the professional expertise of the permanent workforce.
Finding Details	Factory uses short term contracts on an ongoing basis, not for the purpose of a seasonal fluctuation in orders or a transition to regular employment.
Recommendation for Immediate Action	Ensure to avoid signing continuous short-term contracts with employees.

Compliance Classifications	Immediate Action Required
Local Law	
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	Factory does not provide a copy of the labor contract for the employees.
Recommendation for Immediate Action	Deliver a copy of the labor contract to each employee.
Compliance Classifications	Immediate Action Required
Local Law	Article 83° of the Article 83 of the Regulation of the Employment Promotion Law, Supreme Decree No. 001-96-TR modified by Supreme Decree No. 007-2021-TR.
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	Although the factory delivers training in the COC, on-going training on the following policies is not provided for workers: a) Freedom of Association b) Non Discrimination c) Non Retaliation

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	The grievance system does not define person responsible for handling grievances, and timeline to complete the revision and correction process. Also, the factory did not present records of the complaints, follow-up and feedback to employees.
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 procedures regarding performance evaluations that list steps and evaluation process since the contract is renewed every two or three months.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 does not provide on-going training to workers on recruiting, hiring, personnel development, compensation, working hours, termination, conduct in the workplace, and grievance system.
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.-The factory does not have procedures regarding performance evaluations that list steps and evaluation process. 2.- There is no retrenchment procedure covering FLA Benchmarks requirements.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	Based on Article 32 of the Decree Law N° 22342, those industries considered as Non-Traditional exporters (this include textile products) can hire employees under short-term contracts depending on their production needs. Under this legal framework, the factory hires employees with continuous short-term contracts. During the assessment, it was noted that workers that had been working from 2 to 58 months, signing continuous short-term contracts. Although this is not specifically against the law, it is against the FLA Benchmarks. Also, the law is intended to cover those factories in the Non-Traditional exporters' classification with fluctuating orders. However, since workers can remain in the factory for as long as 58 months, it is not possible to confirm that the factory lacks permanent orders form their clients. Clients' information was not requested in the assessment as it is not part of the scope, and it is considered confidential information.
Recommendation for Immediate Action	Stop signing continuous short-term contracts instead of permanent contracts.
Compliance Classifications	Immediate Action Required
Local Law	
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 factory presented training records and it was noted that the orientation training covers the FLA Code of Conduct. However, during the employee interviews, it was consistent that employees were not really familiar with the freedom of association, non discrimination, no harassment and abuse policies. Employees were not aware about these policies.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement 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	No an annual revision of the factory policies is conducted; and therefore employees are not included in the process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.6

Benchmark Details	The workplace shall commit to non-retaliation for all steps of the disciplinary process, including for a worker requesting a witness and filing an appeal of disciplinary action.
Finding Details	There is no evidence in the disciplinary records, or specification in the disciplinary procedures that confirms employees can ask for a witness during the disciplinary process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Harassment Or Abuse (H/A)

Benchmark ID	H/A.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning discipline, violence, harassment and abuse, including that which is gender-based
Finding Details	According to local legal requirements, there is an anti-Harassment Committee with representation from the employees and the employer. However, there is no evidence that workers' representatives are elected by the other workers and not assigned by the employer.
Recommendation for Immediate Action	Ensure that employees select their representatives at the Anti-Harassment Committee.
Compliance Classifications	Immediate Action Required
Local Law	Supreme Decree No. 010-2003-MIMDES, which approves the Regulation of Law No. 27942, Law for the Prevention and Punishment of Harassment sexual

### Health, Safety And Environment (HSE)

Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	No cup is provided for workers in the drinking water stations.
Recommendation for Immediate Action	Ensure to provide enough cups in the water stations at no cost.
Compliance Classifications	Immediate Action Required
Local Law	Article 18 subsection VIII of the Federal Regulation of Health and Safety at Work
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	Machinery warnings were posted in foreign languages instead of the native language of workers.
Recommendation for Immediate Action	Ensure to post machinery warnings in the native language of workers.
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	HSE.16
Benchmark Details	Workers shall not suffer any negative consequences for refusing to work with machinery, equipment or tools that are not properly guarded or reasonably considered unsafe.

Finding Details	From the document review, there are no procedures for the refusal of workers to use unsafe or unprotected machinery. But, it is communicated verbally.
Recommendation for Immediate Action	Ensure to include in the procedures the employees' right to refuse to work under unsafe circumstances.
Compliance Classifications	Immediate Action Required
Local Law	Article 77 of the Law N° 29783, Health and Safety at Work
Benchmark ID	HSE.14.2
Benchmark Details	Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use.
Finding Details	There is no control and supervision procedure for high-risk responsibilities carried out by contractors.
Recommendation for Immediate Action	Ensure to develop and implement a control and supervision procedure for high-risk responsibilities carried out by contractors.
Compliance Classifications	Immediate Action Required
Local Law	Article 56 of the Law N° 29783, Health and Safety at Work,
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	There is no procedure in place to establish measures for safe material lifting, such as the use of safety belts for lifting loads.
Recommendation for Immediate Action	Ensure to develop and implement a safe material lifting procedure including all safety conditions to protect employees.

Compliance Classifications	Immediate Action Required
Local Law	Article 63 of the Law N° 29783, Health and Safety at Work
<b>Nondiscrimination (ND)</b>	
Benchmark ID	ND.4
Benchmark Details	Employers may not request the disclosure of any personal, non-job related information during the application, recruitment, or hiring process, including but not limited to gender, race, religion, disability, sexual orientation, nationality, political opinion, social group, ethnic origin, or marital status.
Finding Details	Candidates applying for medical care position are asked non-job related questions such as the date of their last menstrual period and pregnancy status in the interview.
Recommendation for Immediate Action	Ensure to stop any question not related to candidate experience, skills, training and development.
Compliance Classifications	Immediate Action Required
Local Law	

