

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

21 Aug 2023



Factory Information

FLA Affiliates	Fanatics Apparel LLC,Hanesbrands,Nike, Inc
Country	Vietnam
Number of Workers	3266

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

Compensation (C)	1
Employment Relationship (ER)	4
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	1
Hours Of Work (HOW)	2

Assessment Information

Assessor	OneStep Viet Co., Limited
Assessment Date	21 Aug 2023

Assessment Purpose	
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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	The base salary and allowance of the productions workers and line leaders are based on the company's wage scale, in which, the wage scale of staff level has 3 grades (C1-2-3; O0-1-2-3; M0-1-2-3). The vice-leader is entitled to wage level C1 which is VND 5,900,000 (base salary plus allowance). However, the vice-leader is currently being paid at the same level of production workers which is VND 5,280,000 (base salary plus allowance). Thus, the vice-leader is underpaid for the base salary plus allowance as regulated in the company's wage scale. The factory management explains that they make incorrect policy and wage scale and will revise the policy and wage scale to match with the current wage level. The factory management also explains that all of their vice-leaders are entitled the same wage level with production workers from the beginning.
Recommendation for Immediate Action	Develop a comprehensive wage scale.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14 On Labor code, Article 93

Employment Relationship (ER)

Benchmark ID	ER.1.1
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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	The factory does not have a comprehensive policy and/or procedure in place to evaluate the probation wage for Vice-leaders of sewing line during their probationary duration. As the result, the probation wage of vice-leader of sewing line is not consistent between workers. In practice, the probation wage has different amount for different person with the same job position, such as: VND 4,680,000 or VND 4,914,000 without reasonable reasons given.
Recommendation for Immediate Action	Develop comprehensive policies and procedures regarding compensation.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14 On Labor code, Article 90
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 developed an annual training plan for 2023. However, this training plan does not include skill development program for all employees.
Recommendation for Immediate Action	Provide training/program to worker with the goal of raising or broadening workers' skills so they can advance in their careers.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14 On Labor code, Article 60

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 factory does not have the policy/procedure on job demotion.
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 signed probationary contract with one worker as Sewing position within 6 working days duration (10th May – 15th May 2023) and the labor contract was effective from 9th June 2023 to 7th June 2024. There is no contract during the gap time between 16th May – 8th June 2023. As gathering information from worker interview, it is noted that the factory signed probation contract as production worker first, then promoted to be Vice-leader of sewing line. However, the probationary contract is not matched with the actual practice. Remark: this practice does not affect wages and benefits of this employee.
Recommendation for Immediate Action	Sign the probation contract that covers whole probation period.
Compliance Classifications	Immediate Action Required

Local Law	Law No. 45/2019/QH14 On Labor code, Article 24
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Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.1.1
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	The trade-union fee is not contributed to the superior level union on time on a monthly basis that is same time of compulsory social insurance contribution for employees. In practice, the latest trade-union fee contribution was on July 18, 2023 for paying period of April and May 2023. Remark: - The trade union received the trade-union fee of June 2023 on August 11, 2023. - The trade union has not received the trade-union fee of July 2023 until the assessment time.
Recommendation for Immediate Action	Contribute the trade-union fee to the superior level union on time.
Compliance Classifications	Immediate Action Required
Local Law	Decree No. 191/2013/ND-CP, Article 6, Clause 2

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	<p>1. There is a horizontal crack on the wall near the training room in the second floor of the canteen (production workshop 2). The crack is approx. 0.2 centimeters width and the length is 5 meters. There was no employee working nearby the wall. Remark: The factory repaired and completed plastering walls on the 2nd day of the assessment. Besides, the structured internal checklist record every week was provided for review on the audit day. Canteen (2 floors) located within workshop 2. The structure safety was inspected and certified on May 08, 2021 by the authorized company, Vietsum Construction Consultancy and Quality Control JSC (VCQC). With reference to the verification results at the site and results of calculation, VCQC concluded the structure of the canteen (production workshop 2) has sufficient bearing capacity and is safe to operate using.</p> <p>2. According to the asbestos management program, material that could contain asbestos was tested for asbestos. As mentioned in this program, all material did not have asbestos component. However, the factory does not obtain the asbestos test result for review at the assessment time.</p>
Recommendation for Immediate Action	<p>1. Ensure constructions are safe. 2. Take proper steps to ensure that workers are not exposed to asbestos and obtain relevant record.</p>
Compliance Classifications	Immediate Action Required
Local Law	<p>1. Law No. 84/2015/QH13 on Occupational safety and hygiene, Article 23, Clause 3 and Article 16.</p>

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	Approximately 160 workers worked from 305 to 330 overtime hours in 2022 (from January - December 2022) which exceeded 300 hours as legally required for this factory.

Recommendation for Immediate Action	Control the overtime working hours not to exceed the legal limit.
Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14 On Labor code, Article 107
Benchmark ID	HOW.10.1
Benchmark Details	Employers shall provide workers with all official public holidays as required under national laws, regulations and procedures.
Finding Details	<p>The factory swaps the compensated day-off of public holiday on 1st Jan 2023 from 2nd Jan 2023 (as legal requirement) to 31st Dec 2022 without approved dispatch or official guidance from local department. It leads to some concerns as follows: a) The compensated day-off for public holiday shall be the next working day (2nd Jan 2023 instead of factory practice is 31st Dec 2022) as legal requirement; b) Due to the incorrect practice on swapping compensated day-off for public holiday, it leads to further concern on under payment as the below explanation: - 31st Dec 2022: this is normal working day as the calendar in December 2022, the factory arranges day-off in this day for all workers and it should be considered as downtime-payment on this day. In practice: factory also paid 100% of basic wage for workers on this day, workers received full payment in Dec 2022 (27 working days). - 1st Jan 2023: public holiday, workers were received day-off. However, factory does not count payment on this day in payroll record. - 2nd Jan 2023: it should be compensated day-off for public holiday as legal requirement. Due to the incorrect implementation on swapping compensated day-off, all workers work on this day and are paid 100% of basic wage instead of receiving 200% of basic wage (overtime on compensated day-off). In conclusion, the factory paid sufficient in Dec 2022 (27 working days) and in Jan 2022 (26 working days), lack of 100% of 1st Jan and 100% of 2nd Jan 2023. Remark: the factory explained that all workers signed the voluntary form to agree the practice of swapping weekly rest day from Sunday (1st Jan 2023) to Saturday (31st Dec 2022).</p>
Recommendation for Immediate Action	Provide sufficient payment for workers as legally required.

Compliance Classifications	Immediate Action Required
Local Law	Law No. 45/2019/QH14 On Labor code, Article 111 and 112

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