

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

04 Sep 2023



Factory Information

FLA Affiliates	YS Garments, LLC dba Next Level
Country	Nicaragua
Number of Workers	751

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

Child Labor (CL)	1
Compensation (C)	1
Employment Relationship (ER)	7
Health, Safety And Environment (HSE)	5
Hours Of Work (HOW)	1

Assessment Information

Assessor	VeLar International
Assessment Date	04 Sep 2023

Assessment Purpose	
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ASSESSMENT RESULTS

Child Labor (CL)

Benchmark ID	CL.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the prohibition of child labor.
Finding Details	Based on observation and documentation review, there was no child labor employed at the factory. However, factory has not developed a clear and formal written procedure to verify applicant's date of birth during recruitment process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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	Based on documentation review, factory has deducted full incentive pay (instead of proportional deduction) for 9 out of the 23 workers who granted permission to attend medical appointment during working hours. In addition, the similar case happened to 13 out of 40 interviewed employees in another period. This practice was not aligned with factory compensation policy which mentioned the incentive pay or bonus will be deducted proportionally if the workers could not complete the regular working hours per week. According to factory management, these workers were late to return to work on time and considered as violation to factory's policy. Factory has verbal policy on permission for medical appointment during working hours. The policy enable workers to have paid temporary leave for 3 hours to attend the appointment. In case workers did not return to factory after 3 hours, they would not receive full incentive pay or bonus of the week.
Recommendation for Immediate Action	Please establish a clear and fair policy that discounts only the proportional part of the 7th day and the corresponding bonuses; since even in the case employees take more than three hours, the employees already worked the rest of the week and earned the rest of the payment.
Compliance Classifications	Immediate Action Required
Local Law	Article 64 of the Labor Code of Nicaragua.

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 does not provide ongoing training for workers, neither specific training for supervisors on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, and Grievance System.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	Based on documentation review and management interview, it was confirmed that there was no training or communication conducted or planned to supervisors related to FLA Code or Benchmarks; however the factory has delivered training related with brand's code of conduct to supervisors.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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. There is no specific written hiring procedure that clearly states employment decisions will be based on applicant's qualifications, education, demonstrated skills and /or abilities; in order to avoid any type of discrimination. 2. There is no written procedure on termination and retrenchment. 3. There is no written compensation procedure such as who is responsible for the payroll, the frequency of payment, payment method, and failure to include the payment of legal benefits (bonus, vacations), benefits outside of law (loans, and sale of basic grains at a comfortable price) and law deduction. In addition, there is no written incentive policy and procedure, although factory has an incentive chart onsite.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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	Based on documentation review, it was confirmed that factory does not have written policies and procedures on personnel development. In addition, there is no ongoing training procedures and practices in place in order to develop workers's skills so they can advance in their careers.
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 procedure of performance evaluation only describes the tools to be used, however, there is no clear statement of the further steps that will be done once workers are evaluated.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement 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	Based on documentation review and interview with management and workers, it was confirmed that there was no training or communication conducted to workers related to FLA Code or Benchmarks. The factory has started training for supervisors in the Next Level Code that includes the FLA main policies; however they have not started with the workers training.

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	During management interview and document review, it was confirmed the factory has not performed the annual management reviews for following policies and procedures: Recruitment & Hiring, Termination, Compensation, Industrial Relations, Hours of Work, Disciplinary, Harassment and Abuse, Forced Labor, Discrimination, Freedom of Association, Health, Safety and Environment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Health, Safety And Environment (HSE)

Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The ladder for loading and unloading fabric was not equipped with handrails and wheels with brakes, which can prevent from injury in case of accidents.

Recommendation for Immediate Action	Ensure to equip the ladder with handrails and wheels with brakes and ensure all employees using the ladder are trained to inspect and report any insecure conditions of the ladder.
Compliance Classifications	Immediate Action Required
Local Law	Article 131 of the General Law of Hygiene and Safety at Work Law No. 618.
Benchmark ID	HSE.6.1
Benchmark Details	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.
Finding Details	One out of five extinguishers in the fabric warehouse#2 (fire extinguisher no. 49) was identified with low pressure.
Recommendation for Immediate Action	Replace the fire extinguisher and ensure all proper controls so that all fire extinguishers are kept in good conditions.
Compliance Classifications	Immediate Action Required
Local Law	Article 194 of the General Law of Hygiene and Safety at Work Law No. 618.
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

<p>Finding Details</p>	<p>1.It was observed that factory has not conducted separation of hazardous and non-hazardous waste properly. There was one barrel of oil waste placed in the chemical warehouse. In addition, there was no adequate tools provided to manage spillage while transferring the oil waste to the receiving container (metal barrel). 2. There was no proper system to stowage new cardboard boxes for finished products. New cardboard boxes were stowed at height of the ceiling in the warehouse without any system to ensure the safety in case of falling. 3. There were 5 meetings recorded from period of July 10th to August 25th, 2023 by Joint Committees. However, there was no complete signatures of the meeting participants which can confirm their participation in the meeting as required by law.</p>
<p>Recommendation for Immediate Action</p>	<p>1.- Store all the hazardous wastes in a separate area with the required conditions to avoid spillage and contamination. And provide the adequate container and tools for transfer of oil waste. 2.- Define and mark a stowage limit based on materials conditions and security protocols; and ensure all materials are stored in accordance with this limit. 3.- Ensure all required participants attend the meetings and its signature is properly registered in the minutes of meeting.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	<p>1.- Article 6.1.1 of the Technical Standard for the Handling and Disposal of Hazardous Solid Waste. 2.- Article 25 of the Regulation of the General Law of Hygiene and Safety at Work Executive Decree no. 96-2007, 3.- Article 17 of the Regulation of the General Law of Hygiene and Safety at Work Executive Decree no. 96-2007,</p>
<p>Benchmark ID</p>	<p>HSE.8</p>
<p>Benchmark Details</p>	<p>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.</p>
<p>Finding Details</p>	<p>Based on the risk assessment, employees must use the required PPE. During the tour in the sewing area was observed around 20% of the workers were not wearing their mask.</p>

Recommendation for Immediate Action	Ensure all workers in all areas wear their PPE.
Compliance Classifications	Immediate Action Required
Local Law	Article 134 of the General Law of Hygiene and Safety at Work Law No. 618.
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	Approximately 15% of sewing chairs are missing backrests.
Recommendation for Immediate Action	Ensure to have all sewing chairs with an adequate backrest and generate an inspection protocol to ensure they are kept with all safety requirements all the time.
Compliance Classifications	Immediate Action Required
Local Law	Article 294 of the General Law of Hygiene and Safety at Work Law No. 618.

Hours Of Work (HOW)

Benchmark ID	HOW.22.1
Benchmark Details	Employers shall have in place policies for managing all working hour, overtime, and leave records in normal and exceptional circumstances.
Finding Details	Based on documentation review and management interview, it was confirmed that factory has not developed any written policy and procedure of hours of work. However, the reviewed working hours were in accordance with the law, which confirmed by time records review and workers' interviews.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

