

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**18 Sep 2024**



## Factory Information

FLA Affiliates	Lakeshirts, Inc.
Country	Mexico
Number of Workers	130

## 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)	14
Freedom Of Association And Collective Bargaining (FOA)	1
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	7
Hours Of Work (HOW)	1
Nondiscrimination (ND)	4

## Assessment Information

Assessor	VeLar International
Assessment Date	18 Sep 2024
Assessment Purpose	

## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.24.1
Benchmark Details	Employers shall not set production targets, piece rates or any other incentive or production system at such a level that workers need to work beyond regular working hours as set under the FLA Workplace Code, excluding overtime, in order to make at least the minimum wage or the prevailing industry wage, whichever is higher.
Finding Details	During the employees' interviews, workers declared the production quota (number of required pieces to obtain the bonus), has been increased and it's almost not accessible; therefore, they have received less money under the production bonus. When auditors asked managers about the situation, they informed them that since they are producing a cheap product they had to make this change. However, when the auditor asked for the engineering assessment to determine the production quota, they confirmed no assessment was recorded, they only made a calculation based on the price and not on the number of pieces that are possible to sew.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

### Employment Relationship (ER)

Benchmark ID	ER.17.5
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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	The factory has developed a grievance system procedure and presented some received comments from the employees. However, there is no record to track the number, types, timing, and resolution of grievances. The revision process, the route cause analysis, or the development of a corrective action plan was not clear, and there was no evidence of resolution feedback.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 has not deliver ongoing training to workers on any of the FLA's Code elements and Employment Functions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.2

Benchmark Details	Employers shall ensure managers and supervisors are fully familiar with the workplace disciplinary system and in applying appropriate disciplinary practices.
Finding Details	No training has been delivered to supervisors and managers related to policies and disciplinary protocol.
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	The factory has not delivered training for supervisors in the FLA's Code elements (neither the internal policies, customer policies, or FLA Benchmarks).
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 factory has developed a grievance system procedure, has installed suggestion boxes in the main entrance near to the time record machines and presented some received comments from employees. However, it was noted that the procedure is missing instructions to ensure employees' confidentiality, allow anonymous complaints, objective investigation and resolution, and accurate record keeping of complaints. In fact, the company has not implemented the steps required in the Federal Labor Law Article 132 section XXXI.
Recommendation for Immediate Action	Ensure to update and enhance the grievance system ensuring employees' confidentiality and an adequate investigation and resolution process and implement the required steps of the Protocol to prevent and adress violance and harassment in the working places.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 132 section XXXI.
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	There are missing the following policies and procedures: Recruiting and hiring; Compensation and benefits delivery; Holidays; Overtime; Working hours; Child labor remediation; Freedom of association; Termination and retrenchment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

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	It is missing a protocol to hear and resolve employees' concerns or complaints against the disciplinary actions.
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	The factory has not developed an ongoing training program or procedure for employees' promotion or career development.
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 has not implemented a performance revision procedure that clearly defines objectives, aspects, and evaluation criteria, nor employees' feedback. Therefore the company has not conducted performance reviews of all workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
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 is still missing several policies and procedures including procedures on promotion, demotion, and job reassignment.
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	Suppliers' COC are posted in the building; however, the company has not delivered training on either the FLA's Code of Conduct or the internal policies.
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 individual labor contracts establish a clause that mentions the employee authorizes to be recorded in video and voice inside the facilities, and that these records can be used by the factory for the purposes the factory considers. In this case, there is no legal obligation from the employees to accept this clause; while it is understandable that video is recorded for security reasons, it is not the voice, and neither does it define the type of use that these records can have.
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	The onboarding training is missing information on the company policies and procedures related to promotion, voluntary overtime, compensation, and retrenchment.
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	The factory has not developed or implemented a reviewing system for policies and procedures; therefore employees have not been involved in this process including the decision-making process of workplace and working conditions.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

**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	<p>As per Mexico's Labor Legal reform of 2019, Collective Bargaining Agreements (CBAs) signed before 2019, must be subjected to a democratic process in which the employees vote if they want to continue with the CBA or not; this process was legally named "Legitimization" and all unions were enforced to completed before May 1st, 2023. In the case that employees vote against the continuity of the CBA, or the legitimization process was not performed within the legal period, the CBA is considered no longer active. It is important to clarify that when the legitimization process is not completed, or it is not successful it means the CBA is terminated, but it does not mean employees lose the benefits stated in the CBA and it does not mean the union is no longer active in the factory. Therefore, the company still needs to update the individual labor contracts including all extra benefits stated in the CBA, and deliver a copy to each employee. Also, if there are union representatives or employees enrolled in the union, the company still must respect the union's right to contact the employees. During the management interview, the manager declared they used to have a CBA; however, it was never legitimized by the union and therefore is no longer active. Auditors verified in the authority portal (Federal Center of Laboral Conciliation and Registration: <a href="https://repositorio.centrolaboral.gob.mx/">https://repositorio.centrolaboral.gob.mx/</a>) and noted the CBA no longer appears. However, as mentioned before, in this case, the factory must complete the following steps: 1.- Update the individual labor contract including all extra benefits stated in the CBA 2.- Deliver a copy of the updated labor contract to all workers 3.- Train employees in their freedom of association rights. Also, the factory has not developed a Freedom of Association Procedure that specifies when and how it will complete all new obligations (based on the Labor Reform) that the employer has to fulfill in case a union asks to have access or negotiate a CBA.</p>
Recommendation for Immediate Action	

Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Chapter 7

### 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	Based on the Federal Labor Law Reform, and Mexico's ratification of the ILO Convention 190 about violence and harassment in working places, employers are obligated to develop together with the employees' representatives a protocol to prevent, address, and eradicate labor-related violence in the working places. This protocol must include the confirmation of an ethics committee. The factory has not created an ethic committee; nor developed the protocol.
Recommendation for Immediate Action	Ensure to review the Labor Department's instructions and collaborate with the employees to develop a protocol to prevent, address, and eradicate labor violence in the working places. Also, create the ethics committee and train their participants.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 132 section XXXI

### 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	1. They are missing secondary containers to avoid spillage during the chemical transfer to small containers. 2. There were noted chemical containers not properly labeled in correspondence with the harmonized system required by the norm.
Recommendation for Immediate Action	1. Install the secondary containers in all chemical areas and ensure their capacity is adequate for the volume of substances. 2. Ensure that all chemical containers are properly labeled in correspondence with the harmonized system required by the norm.
Compliance Classifications	Immediate Action Required
Local Law	1.- Mexican NOM-005-STPS-1998 point 5.3 2.- Mexican NOM-005-STPS-1998 point 5.10
Benchmark ID	HSE.19
Benchmark Details	All facilities including workplace buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations.
Finding Details	During the factory tour it was noted lack of order and cleanliness in the warehouse area, there was office equipment disused and flammable material such as paper and cardboard.
Recommendation for Immediate Action	Ensure that all areas are clean and in order and develop a program to inspect and maintain the areas under these conditions all the time.
Compliance Classifications	Immediate Action Required
Local Law	Mexican NOM-001-STPS-2008 point 7.1.1
Benchmark ID	HSE.13
Benchmark Details	All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and to prevent or minimize hazardous conditions to workers in the facility.

Finding Details	1. The lighting assessment has not been updated since 2020 while the regulation establishes it must be updated at least every two years. 2. The company has not updated the electrical grounding assessment since 2020, and the local regulation enforces annual updates. 3. It is missing the annual inspection program for electrical installations.
Recommendation for Immediate Action	1. Perform a new lighting assessment and ensure to development of a protocol to keep all assessments updated as required by the norms. 2. Update the electrical grounding assessment and if applicable implement all derived recommendations. 3. Ensure to update the annual inspection program for electrical installations and consider all risks including the so-called hot spots of the electrical installation (for instance the electrical station located outside and the corresponding risks).
Compliance Classifications	Immediate Action Required
Local Law	1.- Mexican NOM-025-STPS-2008 point 13.3. 2.- Mexican NOM-022-STPS-2015 point 11.5 3.- Mexican NOM-002-STPS-2010 poitn 7.5 and 7.5.2.
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	During the facility tour, it was observed that fire extinguishers were obstructed in the warehouse with rowing materials and cardboard.
Recommendation for Immediate Action	Ensure that fire extinguishers are free from obstructions all the time; reinforce the corresponding training to inform all employees they must keep unobstructed and enhance the surveillance to monitor they are kept under these conditions.
Compliance Classifications	Immediate Action Required
Local Law	Mexican NOM-002-STPS-2010 point 7.2 section "B".

Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	1. The factory has not updated the noise level assessment since 2020; however, the local regulation establishes they must be updated every two years. 2. The working environment assessment for pollutant detection has not been updated since 2020; however, based on the results the assessment must be updated at least every two years.
Recommendation for Immediate Action	1. Ensure to update the noise level assessment and develop a protocol to ensure all required assessments are updated in accordance with the regulation. In addition, based on the assessment results implement the measures required by the norm. 2.- Ensure to update the working environment assessment for pollutant detection in accordance with the regulation.
Compliance Classifications	Immediate Action Required
Local Law	1.- Mexican Nom-011-STPS-2001 point 10.5 2.- Mexican NOM-010-STPS-2014 point 6.1
Benchmark ID	HSE.10.1
Benchmark Details	Material Safety Data Sheets (MSDS) for all chemicals and hazardous substances used in the workplace must be available at the usage and storage sites of the chemicals and hazardous substances, in the local language and the language spoken by workers, if different from the local language.
Finding Details	In the warehouse area, auditors noted chemical containers with oil and stain remover without the corresponding MSDS available in the area.
Recommendation for Immediate Action	Ensure to keep all chemical containers with their MSDS attached or available in the same area; and develop a surveillance process to monitor they are always in their place.



Compliance Classifications	Immediate Action Required
Local Law	Mexican NOM-005-STPS-1998 point 8 section "a".
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	The factory has performed the position risk assessment to determine which PPE is required; however, the assessment does not specify with type of PPE, for instance with type of gloves (cutting, electrical). Also, it is missing signage indicating the type of PPE required in each area, for instance in the warehouse there are no signs requiring safety helmets and boots.
Recommendation for Immediate Action	Ensure to update the position risk assessment and determine specifically the type of PPE required, keep the technical sheets of the equipment to demonstrate it is in compliance with the requirement; post the required signage in the corresponding areas, and ensure proper use of the PPE.
Compliance Classifications	Immediate Action Required
Local Law	Mexican NOM-017-STPS-2008 points 5.2
<b>Hours Of Work (HOW)</b>	
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	The company has still not developed an hours of work policy or procedure and even when overtime has not been enforced, there is no document (policy, procedure, internal rules handbook, or contract) that specifies it is voluntary.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

**Nondiscrimination (ND)**

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	1. The company requires non-criminal records for employees in the warehouse positions, which is forbidden by the Federal Labor Law, the Federal Law to prevent and eliminate discrimination, and the National Criminal Enforcement Law. 2.- The company requires information about the marital status during the application process; even when no discrimination was noted with this information, still is data that must not be asked during this process.
Recommendation for Immediate Action	
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 2nd and 3rd and Federal Law to Prevent and Eliminate the Discrimination Article 1 section III and National Criminal Enforcement Law Article 27 section IV.

Benchmark ID	ND.6.2
Benchmark Details	Employers shall not threaten workers with dismissal or any other employment decision that negatively affects their employment status in order to prevent them from changing their marital, partnership, or family status (including getting married or becoming pregnant.)
Finding Details	The medical test performed during the selection process includes questions about gynecologic health and the last date of last menstruation (this information can reveal a possible pregnancy).
Recommendation for Immediate Action	The medical tests applied in the factory must refer only to the health conditions required and allowed by the SPTS norms; therefore ensure to avoid any other topic and eliminate any question related to the gynecologic or pregnancy conditions.
Compliance Classifications	Immediate Action Required
Local Law	Federal Labor Law Article 2nd and 3rd and Federal Law to Prevent and Eliminate the Discrimination Article 1 section III.
Benchmark ID	ND.3
Benchmark Details	Recruitment and employment policies and practices, including job advertisements, job descriptions, application and interview questions and job performance/evaluation policies and practices shall be free from any type of discriminatory bias.
Finding Details	The company policies mentions only employees over 18 years can be hired. However, the law established that young employees can be hired from 15 to 18 under specific requirements and for non-risk positions. The factory neither developed the risk assessment to determine if positions are dangerous or not for younger employees; nor updated its policy.
Recommendation for Immediate Action	
Compliance Classifications	Immediate Action Required

Local Law	Federal Labor Law Articles 2, 3 and 22.
Benchmark ID	ND.8.1.1
Benchmark Details	Where such legal protective provisions are lacking, employers shall take reasonable measures to ensure the safety and health of pregnant women and their unborn children.
Finding Details	There was no procedure for ensuring pregnant or nursery employees are permanently enjoying their legal rights and are protected against health and safety risks.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

