



FAIR LABOR  
ASSOCIATION<sup>®</sup>

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Panini America, Inc.

COUNTRY: United States

ASSESSMENT DATE: 07/31/18

ASSESSOR: Miriam Rodriguez

PRODUCTS: Paper [for paper products of any type]

NUMBER OF WORKERS: 268

## Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

## Findings and Action Plans

### FINDING NO.1

#### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. Several of the personnel files provided by the temporary labor agency contained errors in the I-9 documentation (Employment Eligibility Verification). The errors included incomplete or missing information, as well as unsigned or undated submission of the document; a sample of 15 records had a 26% error rate. [ER.1.1]
2. The facility's Equal Employment Opportunity policy statement (last revised February 2017 Employee Handbook) lacks the following categories: political opinion, social group, marital status, and union affiliation/sympathy. This policy statement does not align with the FLA Code. [ER.3.2]
3. The facility does not have a policy or practice which addresses the legal requirement of the Texas Voting Time Off by providing employees time off from work to vote, as per guidelines of the Texas Election Code. A review of the facility's current employee handbook, highlights the rights of California based employees, but has not communicated the same rights to Texas based employees. During the audit, facility management agreed to update the employee handbook. [ER.1.1]
4. At the facility, temporary workers from the labor agency have worked on long-term employment without obtaining permanent employment status. At the time of the audit, the labor agency representative confirmed there are seventy-two (72) temporary workers (on 1st shift) who have continually worked more than twelve (12) months of service at the facility. In the case of one worker interviewed by the auditor who confirmed working continually at the facility for 15 years and the worker has refused the permanent employment status. Facility management advised that these long-term workers have not accepted full or permanent employment at the facility. Nevertheless, the facility did not provide any documentation as evidence in which the temporary worker declined a job offer of permanent employment. [ER.9]
5. The facility does not have access to the computerized personnel files maintained and kept by the labor agency. Furthermore, the facility has not monitored the labor agency's practice or process of the employment cycle (from hiring to termination). [ER.11]
6. The facility has not provided to, nor does the temporary labor agency use a detailed job description or profile to seek or identify prospective applicants. Furthermore, the labor agency provides vague details of the work on the job assignment sheet provided to temporary worker for the first day of work. [ER.1, ER.11]
7. There is a lack of standard contract language with labor agency, which specifically imparts power to the facility to directly pay wages to temporary workers. The facility does not conduct review or validate that the labor agency is meeting the labor law or expectations of the facility. Currently the facility has 187 temporary workers hired through the labor agency. [ER.6]

##### Local Law or Code Requirement

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Temp agency files need to be monitored for accuracy completeness.

Handbook needs to be updated to include the categories of political opinion, social group, marital status and union affiliation/sympathy.

add policy for Texas voting time off

offer full time employment to temp workers as jobs are available and document any refusals.

Factory needs to monitor temp agency practices as well as create job descriptions for temp positions

#### Planned completion date

08/03/19

#### Company Action Plan Update

Factory has created a process for checking the accuracy of Temp Agency employee files and will carry out random audits.

The handbook has been revised and training has taken place for the categories and voting rights listed.

when temp workers are offered full time positions and refuse them, the exchange will be documented

they have work with the temp agency on job descriptions and are more closely monitoring the temp agency

training on the new revisions has been completed and documented.

## FINDING NO.2

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

The facility's cooling mechanism does not function adequately, as the auditor observed in the work area the use of multiple fans throughout the facility. Facility management advised the need of a new ventilation system; however, senior management has initiated the bidding and procurement process to acquire and install a new ventilation system in the building. This process will take more than 90 days to complete before the new ventilation system is in place at the facility. [HSE.13]

#### Local Law or Code Requirement

General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act, and FLA Workplace Code (Health, Safety, and Environment HSE.13)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

a new ventilation system needs to be installed for adequate cooling

#### Planned completion date

08/03/19

#### Company Action Plan Update

a new ventilation system has been researched and bids have been accepted.

installation is still forth coming

## FINDING NO.3

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Health & Safety

#### Finding Explanation

1. The temporary labor agency charges temporary workers the costs of personal protective equipment (PPE) and work aids, including uniforms (t-shirts). A pair of gloves costs \$1.00 and a work T-shirt costs \$15.00. The worker must pay cash or have the cost deducted from their wages. The worker signs an authorization for the deduction. This temporary labor agency has not reported this practice to the facility. [ER.6, HSE.7]
2. Floor markings throughout the building are not permanent or are worn or faded throughout the work area. Management advised that they were in the process of selecting better materials to mark the floors. [HSE.5]
3. The current documentation kept by the facility does not identify the pregnancy status of female workers who have requested accommodations for lactation or other pre-or post-maternity needs. The current employee handbook does not include any accommodation for pregnancy or maternity status of female workers. Furthermore, the facility has not identified a room for nursing mothers to use for the purposes of lactation. [ND.8.1, ER.12]

#### Local Law or Code Requirement

OSHA 29CFR1910.132 (h) (1); OSHA 29CFR1910.176; Fair Labor Standards Act, Section 7 (Break Time for Nursing Mothers, March 2010); FLA Workplace Code (Employment Relationship Benchmarks ER.6 and ER.12; Health, Safety and Environment Benchmark HSE.5, HSE.7; Nondiscrimination Benchmark ND.8.1)

#### Recommendations for Immediate Action

1. Provide the necessary PPE or work aids to all workers free of charge and repay any monies charged to workers in FY 2018.
2. Identify permanent paint or higher quality floor tape and conduct periodic reviews of work areas.
3. Develop, implement, and communicate policy for nursing mothers, identify and provide room appropriate for nursing purposes

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Temp agency will be informed that they may not charge for PPE. All PPE will be provided by factory.

Floor markings will be made more evident.

a room will be designated for nursing mothers and policy will be written and included in the current handbook and orientations

#### Company Action Plan Update

Factory is providing all necessary PPE.

a room has been designated and prepared for nursing mothers

Floor markings have been redone for clarity and will be monitored.

training on the new revisions for current employees has been completed and documented.

### Action Plan no 2.

#### Description

Inform temp agency that they may not charge for PPE

Factory will supply all PPE at no charge.

Floor markings will be redone for better visibility

A room will be designated and prepared for nursing mothers

#### Company Action Plan Update

the temp agency has been informed that they may not charge employees for PPE. Factory will cover that cost.

A room has been established for nursing mothers to express breast milk.

A Temporary Workforce Labor Orientation guide has been updated to inform workers of accommodations of pre and post maternity needs.

training on the new revisions for current workers has been completed and documented.

Floor markings have been redone for better visibility

## FINDING NO.4

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Workplace Conduct & Discipline

### Finding Explanation

1. The facility's current policy of Disciplinary Actions does not outline the appeal process or the ability of the worker to select a third party to witness the disciplinary action. [ER.27.4]

2. The facility's Disciplinary Policy is not progressive system, with an application of escalating disciplinary actions from verbal to written to suspension to termination. [ER.27.1]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.27.1 and ER.27.4)

## COMPANY ACTION PLANS

Action Plan no 1.

### Description

Handbook will be updated with new policy detailing progressive discipline.  
employee training and then review will be done on a regular basis

### Company Action Plan Update

The Employee Handbook has been revised to include the necessary details of progressive discipline. Training on new revisions has been conducted and documented.

## FINDING NO.5

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Industrial Relations

### Finding Explanation

The factory has not provided training for supervisors and workers on policies, procedures, and applicable legal provisions on Industrial Relations. [ER.25.1]

### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.25.1)

## COMPANY ACTION PLANS

Action Plan no 1.

### Description

Develop training for supervisors and workers on Industrial Relations.  
Conduct refresher training on a regular basis

### Company Action Plan Update

Factory has initiated multiple trainings from new hire throughout employment periods. Training records are maintained.

## FINDING NO.6

## SUSTAINABLE IMPROVEMENT REQUIRED

## FINDING TYPE: Termination & Retrenchment

### Finding Explanation

1. The factory does not conduct periodic review of policies, procedures, and applicable legal provisions regarding Termination & Retrenchment. [ER.1.3, ER.16.1, ER.32.1]

2. While the factory has not experienced any layoffs in the recent past, the factory's termination procedure does not include consultation with workers, or worker representatives, before management reaches any final decisions on layoffs. [ER.1.3, ER.16.1, ER.32.1]

3. The facility has not provided to workers any communication regarding retrenchment policy. [ER.1.3, ER.16.1, ER.32.1]

4. The facility did not provide evidence of termination and retrenchment policy or procedures, related to payouts. [ER.1.3, ER.16.1, ER.32.1, C.19]

#### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.16.1, and ER.32.1; Compensation Benchmark C.19)

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Employee handbook will be revised to address retrenchment.

Training on the new policies will be scheduled when revisions are available

#### Company Action Plan Update

The employee handbook has been revised to address retrenchment. Training for the new revisions has been conducted and documented.

Policies will be reviewed annually.

## FINDING NO.7

## IMMEDIATE ACTION REQUIRED

### FINDING TYPE: Hours of Work

#### Finding Explanation

1. A review of the temporary labor's payroll documents identified two instances in which agency employees worked without a consecutive 24 hours rest in a 7-day period (two female workers during the week of 7/16/18). One worker labored eight (8) consecutive days without a consecutive 24 hours rest, while the other worker had nine (9) consecutive days without a consecutive 24 hours rest. The time clock system of the labor agency does not trigger an alert if a worker labors more than six days in a week. [HOW.2]

2. A review of the temporary labor agency's payroll documents identified two (2) instances in which workers exceeded 60 hours in a week, which occurred during a week in July 2018. One worker exceeded the 60 hours maximum by 3.75 hours, while the other worker exceeded the 60 hours maximum by 4.75 hours. The temporary labor agency time clock does not alert if any worker will exceed the 60 hours cap. [HOW.1.3, HOW.8.3]

#### Local Law or Code Requirement

FLA Workplace Code (Hours of Work Benchmarks HOW.1.3, HOW.2, HOW.8.3)

#### Recommendations for Immediate Action

1. The facility must advise the temporary agency that no worker should exceed one day off in seven day period. Facility should monitor periodically the time clock registers or work schedules.

2. The facility must advise the temporary agency that no worker should exceed 60 hours in a week (regular hours plus overtime). The facility should monitor periodically the time clock registers or work schedules.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Establish guidelines with temp agency for controlling overtime and consecutive days work without a rest day.

Do random audits of timesheets to insure the policy is being adhered to.

#### Company Action Plan Update

Temporary Workforce Labor Orientation Guide has been revised to inform all temp agency employees of a maximum overtime hours per week. it provides for no more than 6 consecutive days of work before a day off. Factory has a process in place to perform random audits of the temp employee time sheets to insure the overtime guidelines are being adhered to.

## FINDING NO.8

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. Seniority and fringe benefits are not provided to temporary workers converted to permanent employment status. Workers who are converted from the temporary labor agency to the factory's payroll have their seniority dated as from the start date of permanent employment, rather than the first work day as a temporary or contracted worker at the factory. According to the temporary labor agency, fifteen (15) workers have been converted in 2018 converted to permanent status. This practice violates FLA benchmark stipulating that for any temporary worker who becomes permanent employee, seniority and other fringe benefits eligibility must be dated from the first date as a temporary worker. [C.18, ER.12]

##### Local Law or Code Requirement

FLA Workplace Code (Compensation Benchmark C.18; Employment Relationship Benchmark ER.12)

##### Recommendations for Immediate Action

1. Review current practice and identify those benefits whether seniority or fringe which may be grant to workers made permanent employees.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

Temp employees converted to full time will be given consideration in regard to pay and experience. Since temp staff do not work on a continuous basis, their seniority and fringe benefits will begin on their hire date.

##### Company Action Plan Update

Temp employees converted to full time will be given consideration in regard to pay and experience. Since temp staff do not work on a continuous basis, their fringe benefits will begin on their hire date.

## FINDING NO.9

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. The temporary labor agency charges applicants or prospective employees with the costs of background checks, or drug tests, which are part of the on-boarding process. The temporary agency on-site representative advised that the cost of the background check is \$1.50, and the cost of the drug screening is \$2.99; these fees were deducted via payroll. The current contract between the facility and the labor agency does not permit this fee deduction, however, facility management was not aware of the labor agency's current practice. [ER.5, ER.6, ND.3]

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.5 and ER.6; Nondiscrimination Benchmark ND.3)

##### Recommendations for Immediate Action

1. Ensure that applicants or prospective employees do not have to pay for background checks or drug tests. Enforce the current contract between the facility and the labor agency that does not permit this fee deduction.

### COMPANY ACTION PLANS

## Action Plan no 1.

### Description

Temp agency informed factory that charging the small fee for drug test and background check gets people who won't pass to discontinue the application process so they accept that. they will monitor that process in random audits