



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Kathmandu
COUNTRY: China
ASSESSMENT DATE: 12/26/17
ASSESSOR: Elevate
PRODUCTS: Apparel
NUMBER OF WORKERS: 416

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

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory has not hired any disabled workers although local law requires that at least 1.5% of the total workforce be comprised of disabled workers. The factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under local law, however, this practice carries the risk of discrimination based on FLA Workplace Code and Benchmarks. ER.3, ND.2, ND.9
2. The factory has a probation period of six months. C.3
3. The factory's job application forms include a question regarding marital status. This could lead to discrimination during the Recruitment process. ER.3, ND.2
4. The factory does not have any policy or procedures on Personnel Development. ER.1, ER.28, ER.29, ER.30
5. The factory does not conduct performance reviews for any workers. ER.29

Local Law or Code Requirement

Regulation on the Employment of Persons with Disabilities, Article 8; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.3, ER.14, ER.28, ER.29, and ER.30; Non-Discrimination Benchmarks ND.1, ND.2, and ND.9; Compensation Benchmark C.3)

Recommendations for Immediate Action

1. Hire at least five disabled workers (1.5% of the workforce at the time of the assessment).
2. Reduce the probation period so that it does not exceed three months.
3. Remove the question regarding marital status from the job application form.

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA Hire at least five disabled workers (1.5% of the workforce at the time of the assessment). SI 1. Create written policies and procedures outlining the hiring process for all Employment Functions including disabled workers. 2. Provide HR employees with education on these procedures outlining process for hiring for all Employment Functions and respond to questions. 3. Monitor implementation

Action Plan no 2.

Description

IA Reduce the probation period so that it does not exceed three months. SI 1. Train HR and related personnel on legal probation period. 2. Communicate probation period with workers and post on bulletin boards, include in worker handbook, orientation and training. 3. Create system to monitor the probation period

Action Plan no 3.

Description

A Remove the question regarding marital status from the job application form. SI 1. Train HR and related personnel on discrimination in the hiring process. 2. Include this in company policy and procedures and include in worker handbook, orientation and training. 3. Create system to monitor the recruitment process.

Action Plan no 4.

Description

IA Create policy and procedures on Personnel Development SI 1. Train HR and related personnel on conducting performance reviews for all workers. 2. Include this in company policy and procedures and include in worker handbook, orientation and training. 3. Create system to monitor the process.

Action Plan no 5.

Description

IA Conduct performance reviews for all workers. SI 1. Train HR and related personnel on procedures to encourage Personnel Development. 2. Include this in company policy and procedures and include in worker handbook, orientation and training. 3. Create system to monitor the process.

Action Plan no 6.

Description

Nil

Company Action Plan Update

1. 1 At present, we have hired 3 disabled workers, other positions are still in the process of recruitment.

1.2 The company currently has a labor contract with the employee for more than 3 years, and the probation period is 6 months according to the law.

1.3 cancel marital requirement.

1.4 At present, the company already has employee skill level training, and assesses the salary level according to the skill.

1.5 At present, the company already has employee skill level training, and assesses the salary level according to the skill.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not take workers' cumulative work experience (previous job experience prior to employment at the factory) into

- account when calculating annual leave as legally required. The factory's fringe benefits policy states that workers are only able to enjoy such benefits after they have been working at the factory for at least one year. ER.22, HOW.1, HOW.11, HOW.12, HOW.13, C.1, C.5, C.6
2. All workers at the factory are covered by the five categories of social insurance. However, the contribution base for 37 out of 312 workers (12%) is the minimum standard of RMB 2820 (USD 430.08) rather than the workers' actual earnings, which are higher than the minimum standard, as legally required. ER.22, C.1, C.5, C.10
3. The factory does not pay into the legally required Housing Provident Fund for 51 out of 312 workers (16%). ER.22, C.1, C.10

Local Law or Code Requirement

PRC Regulations on Employee's Paid Annual Leave, Article 3; Social Insurance Law of PRC, Articles 58 and 60; Regulation on the Housing Provident Fund Management (2002), Article 15; FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1, C.5, and C.10; Hours of Work Benchmarks HOW.1, HOW.11, HOW.12, and HOW.13)

Recommendations for Immediate Action

1. Take workers' cumulative job experience (including previous job experience prior to employment at the factory) into account when calculating annual leave as legally required. Update the annual leave policy to be in line with legal requirements. Retroactively compensate workers for any annual leave that they should have received over the past 12 months.
2. Base social insurance contributions on workers' actual earnings as legally required.

COMPANY ACTION PLANS

Action Plan no 1.

Description

A

Take workers' cumulative job experience (including previous job experience prior to employment at the factory) into account when calculating annual leave as legally required. Update the annual leave policy to be in line with legal requirements. Retroactively compensate workers for any annual leave that they should have received over the past 12 months.

SI

1. Train HR and related personnel on legal wage rates for all staff including previous work experience.
2. Communicate with workers and post on bulletin boards, include in worker handbook, orientation and training.
3. Create system to monitor the correct payment of wages.
4. Ensure payments for workers are timely and accurate.
5. Implement contributions.

Action Plan no 2.

Description

IA

Base social insurance contributions on workers' actual earnings as legally required.

SI

1. Train HR and related personnel on social insurance and how to implement the legally required Social Insurance payments within the factory.
2. Communicate with workers and post on bulletin boards, include in worker handbook, orientation and training as to social insurance.
3. Create system to monitor the increase in % of workers paid social insurance per year.
4. Implement corrected contributions and monitor implementation

Action Plan no 3.

Description

IA Pay into legally required Housing Fund for all workers. SI 1. Train HR and related personnel on social insurance and how to implement the legally required Housing Fund payments within the factory. 2. Communicate with workers and post on bulletin boards, include in worker handbook, orientation and training as to Housing Fund payments. 3. Create system to monitor the increase in % of workers paid housing fund payments per year. 4. Implement corrected contributions and monitor implementation

Action Plan no 4.

Description

N/A

Company Action Plan Update

2.1 Revise the annual leave management policy and calculate annual leave based on actual working age.

2.2 the factory pays the social security base according to the actual salary of the employees.

2.3 The factory has provided the housing fund for all employees under contract.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory obtained approval from the local Labor Bureau to implement a Comprehensive Working Hours System (CWHS) in the factory for one year, from January 15, 2016 to January 14, 2017. This approval was renewed for a second year, from January 15, 2017 to January 14, 2018. The total working hours per year allowed under the CWHS was 2,432 hours, calculated as follows: $2,432 = (8 \text{ hours} \times 250 \text{ days}) + (36 \text{ overtime hours} \times 12 \text{ months})$. At the time of the assessment, 100% of the sampled workers had already exceeded 2,432 hours of work per year. The maximum total working hours were 2,574 hours in 2016 and 2,512 hours in 2017. HOW.1

2. There are discrepancies between the production-related records and the electronic time records. As a result, workers' working hours and payment status could not be verified during the assessment. For example:

1. The In-Process Quality Check (IPQC) records for the cutting section show that there was a worker present at 8:10 pm on November 4, 2017 and 8:00 pm on November 6, 2017. However, the electronic time records show that the same worker punched out at 5:00 pm on November 4, 2017 and 7:43 on November 6, 2017.

2. The broken needle records show that there was work being done at 7:15 pm on December 21, 2017. However, the electronic time records show that the same sewing workers punched out at 5:06 pm that day.

3. Management stated that these discrepancies were due to human error and that said workers did not work on those dates. However, the factory could not provide evidence or proof to substantiate their explanation. Assessors noted other similar discrepancies as well. Due to these inconsistencies, assessors were not able to verify if the factory was in compliance with legal requirements and FLA standards regarding Hours of Work and Compensation. ER.2, ER.23, HOW.2, C.1

3. The factory's working hours records do not identify pregnant workers or the status of pregnant workers ER.14, HOW.5

Local Law or Code Requirement

PRC Labor Law, Article 41; FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.14, and ER.23; Hours of Work Benchmarks HOW.1, HOW.2, and HOW.5)

Recommendations for Immediate Action

Do not allow workers to work more than the Comply with the Comprehensive Working Hours System approval requirements.Keep complete, accurate, and verifiable attendance and payment records.

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA
Do not allow workers to work more than the Comply with the Comprehensive Working Hours System approval requirements.Keep complete, accurate, and verifiable attendance and payment records.

- SI
1. Train HR and related personnel on hours of work and legal requirements related to it.
 2. Communicate the legal requirements with workers and post on bulletin boards, include in worker handbook, orientation and trainings.
 3. Create effective system to monitor hours of work.

4. Monitor implementation.

Action Plan no 2.

Description

IA

Identify the reasons for discrepancies between the production-related records and the electronic time records and eliminate the difference to ensure they are consistent and accurate.

SI

1. Review policy and procedures on production-related records and the electronic time records and identify the gaps
2. Align policy and procedures on production-related records and the electronic time records with industry best practices.
3. Train related HR personnel on changes on policy and procedures and maintain accurate records.
4. Monitor implementation and progress on keeping accurate records.

Action Plan no 3.

Description

IA Identify workers who are lactating and pregnant employees and ensure working hour records reflect this. SI 1. Review law relating to lactating and pregnant employees. 2. Identify all workers who are lactating and pregnant employees 3. Provide education on the law and factory policy regarding working hours to lactating and pregnant employees

Action Plan no 4.

Description

Nil

Company Action Plan Update

3.1 Control overtime according to production plan. And our company arranges overtime to control the total overtime in the off-season.

3.2 Limit employees to enter the production area during breaks.

3.3 The factory has policy for lactation employees to give 1 hour of breastfeeding leave. To arrange pregnant employees for easy work, no overtime work.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Management handles Workplace Conduct violations (such as workers arriving late or leaving early) verbally without maintaining written documentation. As a result, records of disciplinary records are not maintained in workers' personnel files and workers do not sign all records of disciplinary actions taken against them. ER.2, ER.27
2. Disciplinary actions are not witnessed by a third party during imposition. ER.27

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA

Maintain a record of all disciplinary actions in workers' personnel files and ensure workers sign all records of disciplinary actions taken against them.

SI

1. Review current disciplinary policy and procedures.
2. Revise details on disciplinary actions within legal requirements including procedure for workers to appeal disciplinary actions taken against them.
3. Train HR and related personnel on the provision for workers to appeal disciplinary actions taken against them.
4. Include changes on worker orientation and trainings.
5. Create system to monitor disciplinary actions against workers and any appeals.

Action Plan no 2.

Description

A

Ensure all disciplinary actions are witnessed by a third party during imposition.

SI

1. Review current disciplinary policy and procedures.
2. Revise details on disciplinary actions within legal requirements including the presence of a third-party witness during application of disciplinary actions.
3. Include changes on worker orientation and trainings.
4. Create system to monitor disciplinary actions against workers and any appeals.

Action Plan no 3.

Description

Nil

Company Action Plan Update

4.1 1 Review current disciplinary policy and procedures.

2. Revise details on disciplinary actions within legal requirements including procedure for workers to appeal disciplinary actions taken against them.

3. Train HR and related personnel on the provision for workers to appeal disciplinary actions taken against them.

4. Include changes on worker orientation and trainings.

5. Create system to monitor disciplinary actions against workers and any appeals.

4.2 1. Review current disciplinary policy and procedures.

2. Revise details on disciplinary actions within legal requirements including the presence of a third-party witness during application of disciplinary actions.
3. Include changes on worker orientation and trainings.
4. Create system to monitor disciplinary actions against workers and any appeals.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory does not periodically review its policies or procedures for any of the Employment Functions. ER.1, ER.29, ER.30, ER.31

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.29, ER.30, and ER.31)

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA Create a policy and procedure to ensure that the company periodically reviews policies or procedures for the Employment Functions. SI 1. Train HR and related personnel on changes 2. Include in worker handbook. 3. Include changes in worker orientation and trainings 4. Monitor implementation

Action Plan no 2.

Description

Nil

Company Action Plan Update

1.We always do nonscheduled checking on national and local policy, then update our internal policy accordingly. We'll do annual internal audit as you suggested. In evidence, you can see we have a whole list, Employment Function is just a part of it. The signature behind is just to make sure we check annually, beside, we still do nonscheduled checking.

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. FOA.2

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmark FOA.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA Ensure workers have the freedom to form a worker representative group, or union, even if not to FLA standards. SI Find ways for workers to have various ways of effectively communicating with management.

Action Plan no 2.

Description

Nil

Company Action Plan Update

Continuous Improvement.

Worker Representative system and grievance system required by Kathmandu

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has not trained workers in proper lifting techniques or provided workers who lift heavy objects with lifting belts. HSE.7, HSE.17
2. Two workers on the second floor of the production building have their access to the emergency evacuation aisle blocked by work bins. HSE.1, HSE.5
3. The factory is not taking steps to reduce repetitive-motion induced stress or injuries. Individual workstations are not adjustable to fit individual workers and chairs do not have proper backrests. Anti-fatigue mats are not provided for standing workers. HSE.17
4. The factory does not keep track of all illnesses. HSE.3
5. The factory's Health & Safety procedures do not include steps for workers to raise Health & Safety concerns or protect workers who allege Health & Safety violations against retaliation. ER.31

Local Law or Code Requirement

PRC Fire Prevention Law, Article 16(4);FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment

Recommendations for Immediate Action

1. Provide workers who lift heavy objects with lifting belts to prevent injury.
2. Clear blockages and ensure that workers' have access to evacuation aisles at all times.

COMPANY ACTION PLANS

Action Plan no 1.

Description

IA Provide workers who lift heavy objects with lifting belts to prevent injury. SI 1. Create or amend Health and safety Policy and Procedure addressing safe use of lifting belts and related training. 2. Provide Health and safety training to all employees who lift heavy objects as part of their work. 3. Create a procedures for the storage, use and replacement of lifting belts as they are needed.

Action Plan no 2.

Description

IA Clear blockages and ensure that workers' have access to evacuation aisles at all times. SI 1. Create or amend Health and Safety Policy and Procedure addressing fire safety and building evacuation. 2. Provide training or source external training for all employees who need to follow up on a risk assessment. 3. Create procedures to ensure that the aisles are regularly checked and obstructions removed.

Action Plan no 3.

Description

IA

1. Appoint Health and Safety person responsible.
2. Identify which workers are in most need of additional equipment to ensure their health and prevent repetitive-motion stress and/or injuries.
3. Purchase the necessary equipment and provide training on the equipment to relevant workers.

SI

1. Create or amend Health and safety Policy and Procedure addressing safe use of preventative equipment and related training.
2. Provide Health and safety training to all employees who are at risk of repetitive-motion stress and/or injuries as part of their work.
3. Create a procedures for the storage, use and replace

Action Plan no 4.

Description

IA

1. Create formal policies and procedures on Health & Safety.
2. Include in this a system for workers to raise Health & Safety concerns.
3. Include in this policy protection against retaliation for workers who raise such Health and Safety concerns.
4. Provide education for workers on the new policy and additions.
5. Respond to questions.

SI

1. Review policy and procedures tracking illnesses.
2. Conduct a root-cause analysis of illnesses to see whether there are factory or work related illnesses.
3. Train HR personnel to follow up on repeated illnesses.
5. Monitor implementation and progress.

Action Plan no 5.

Description

IA

1. Create formal policies and procedures on Health & Safety.
2. Include in this a system for workers to raise Health & Safety concerns.
3. Include in this policy protection against retaliation for workers who raise such Health and Safety concerns.
4. Provide education for workers on the new policy and additions.
5. Respond to questions.

SI

1. Appoint a Health and Safety person who is responsible for ensuring the policy and procedures are complied with.
2. Create a system for Health and safety concerns to be raised without retaliation.
3. Train HR and related personnel on Health and safety changes
4. Include Health and Safety changes on new worker orientation, employee handbook and trainings.
5. Create system to monitor Health and safety issues to their resolution
6. Monitor implementation

Action Plan no 6.

Description

Nil

Company Action Plan Update

7.1

1. Create or amend Health and safety Policy and Procedure addressing safe use of lifting belts and related training.
2. Provide Health and safety training to all employees who lift heavy objects as part of their work.
3. Create a procedures for the storage, use and replacement of lifting belts as they are needed.

7.2

1. Create or amend Health and Safety Policy and Procedure addressing fire safety and building evacuation.
2. Provide training or source external training for all employees who need to follow up on a risk assessment.
3. Create procedures to ensure that the aisles are regularly checked and obstructions removed.

7.3

1. Create or amend Health and safety Policy and Procedure addressing safe use of preventative equipment and related training.
2. Provide Health and safety training to all employees who are at risk of repetitive-motion stress and/or injuries as part of their work.
3. Create a procedures for the storage, use and replacement of supporting and preventative equipment as needed.

7.4

1. Review policy and procedures tracking illnesses.

2. Conduct a root-cause analysis of illnesses to see whether there are factory or work related illnesses.
3. Train HR personnel to follow up on repeated illnesses.
5. Monitor implementation and progress.

7.5

1. Appoint a Health and Safety person who is responsible for ensuring the policy and procedures are complied with. 2. Create a system for Health and safety concerns to be raised without retaliation.
3. Train HR and related personnel on Health and safety changes
4. Include Health and Safety changes on new worker orientation, employee handbook and trainings.
5. Create system to monitor Health and safety issues to their resolution
6. Monitor implementation