



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Fanatics Apparel, Inc.

COUNTRY: Vietnam

ASSESSMENT DATE: 03/22/18

ASSESSOR: Openview

PRODUCTS: Other

NUMBER OF WORKERS: 770

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: Health & Safety

Finding Explanation

1. The men's toilet was not clean and had a smell. Furthermore, no toilet paper was available. [HSE.19]
2. The factory has not tracked all worker illnesses. [HSE.1, HSE.3]
3. The factory does not conduct a pre-employment health check for workers as required by local law. [HSE.1]
4. The factory does not provide an occupational disease check for workers as required by local law. [HSE.1]

Local Law or Code Requirement

Circular 28/2016/TT-BYT, Article 2 & 3; Law on Occupational health and safety, Article 31; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.3, and HSE.19)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. We reminded for better control , also added paper for worker use during the working time
2. Factory's nurse are assigned to track worker illnesses as requirement
3. Factory will conduct pre-employment health check for workers not health certificate attached when hiring.
4. The occupational disease check will be provided based on considering of Doctor when conduct general health check annually

Company Action Plan Update

Completed

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Two out of seven fire alarms tested at the canteen and material warehouse are not functional. [HSE.6]
2. There is no fire alarm installed at the foreigner management dormitory. [HSE.6]
3. Two out of six emergency lights tested in the maintenance section and at the canteen sections are not functional. [HSE.5]
4. One out of three fire-fighting water pumps (diesel water pumps) tested in the factory is not functional. [HSE.6]
5. The factory does not check fire extinguishers and emergency exit lights monthly as per the HSE procedures. [HSE.5, HSE.6, HSE.1]
6. There are flammable waste and carton boxes in the motorbike parking areas, which create a fire risk. [HSE.6]

Local Law or Code Requirement

Decree 79/2014/ND-CP, Article 7,33 and 34; TCVN 3890:2009, Article 6 and 8. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5, and HSE.6)

Recommendations for Immediate Action

1. Repair the broken fire alarms at the canteen and the material warehouse.
2. Install a fire alarm in the foreigner dormitory and link it to the fire alarm system of the factory.
3. Check the emergency lights to ensure that they are functional and ready to use.
4. Check and repair the firefighting water pumps.
5. Ensure that all fire extinguishers and emergency lights are checked monthly and are functional.
6. Remove the flammable waste and the carton boxes in the motorbike parking areas.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Point 1 & 3 : Factory immediately checked fire alarms and arrange people in charge to check this system every day to ensure that they are functional and available to use in emergency events.

Point 2 : Factory immediately installed the fire alarm for dormitory, link it with the fire alarm system of the factory as the requirement.

Point 3,4 & 5 : The factory immediately checked the firefighting water pumps, emergency lights and arrange people in charge to check this all of them everyday to ensure that they are functional and ready to use in emergency events

Point 6 : Factory moved flammable waste and carton boxes to safety place to prevent of fire risk already.

Company Action Plan Update

Completed

FINDING NO.3

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

In months with 27 working days, the factory pays workers an extra one-day's wage in addition to contracted wages. Assessors confirmed

that workers receive 24 consecutive hours of rest in every seven day period.

COMPANY ACTION PLANS

Action Plan no 1.

Description

No Changing, maintain good performance

Company Action Plan Update

No Changing, maintain good performance

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Three boiler operators do not have safety operation certificates. [HSE.4]
2. At least three areas of the wooden floor are broken on the mezzanine where finished goods are stored. [HSE.25]
3. The factory has not performed an asbestos exposure risk assessment nor developed proper procedures to prevent exposure risk. Based on the onsite observation and factory management interview, it was found that asbestos is used as the cover on steam pipes. These steam pipes are not labeled properly. [HSE.1]
4. In 10% of observed cases, workers were not properly using needle guards and eye protection. [HSE.7]
5. The factory has not developed an ergonomic training program to reduce repetitive-motion stress or injuries. The factory does not provide training on proper lifting for relevant workers. In addition, not all workers with a sitting job (e.g. sewing workers) have ergonomic chairs with adjustable height. Ironing workers and QC workers do not use the provided anti-fatigue mats while working. [HSE.17]
6. The traffic lanes and walk paths are not clearly marked. In addition, there are no visual management measures such as indicators, convex mirrors, or reflectors to ensure safe driving on the factory premises. [HSE.5, HSE.1]
7. The factory does not conduct health and safety risk assessments for workers who use laser machines. The factory also does not provide appropriate training for these workers. [HSE.14]
8. The factory does not identify confined spaces and has not developed a procedure to manage the potential risk. Also, there is no warning sign, rescue equipment or safety operation guideline available. [HSE.14]
9. The lockout-tagout procedure is not implemented properly. For example, there is no locking out equipment available, and the electrician is not clear about this program. [HSE.14]

Local Law or Code Requirement

Vietnam Labor Code, Article 138 and Article 150; Decree No. 39/2016/ND-CP, Article 3,4,5 and 6. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.5, HSE.7, HSE.14, HSE.17, and HSE.25)

Recommendations for Immediate Action

1. Provide boiler operators with training and ensure they are certified for safe operation.
2. Check and fix the broken floor areas on the mezzanine at the finished goods warehouse.
3. Properly label the steam pipes with asbestos exposure risk.
4. Implement lockout-tagout equipment to ensure the safety of relevant workers.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory immediately checked and fixed the broken areas on the mezzanine at the finished goods warehouse (point 2) , finish the training course for boiler operators (point 1) and reminding workers use needle guards accordingly (point 4).

Point 3 : The factory added Amiăng warning sign on the steam pipes. Moreover , also add Amiăng safety on factory's evaluation plan to performed an asbestos exposure risk assessment and developed proper procedures to prevent exposure risk.

Point 5 : Base on last factory's safety assessment , factory hold addition training on ergonomics, lifting, injuries , using PPE for workers as audit requirement.

Point 6 : Factory remarked / added sign for missing or not clear sign of the traffic lanes and walk paths. The factory will consider for necessary management measures based on result of risk assessment.

Point 7 : Factory will conduct risk assessments on regarding health and safety of Laser machines then provide appropriate training for workers are using these machines.

Point 8 : Factory's compliance team is reviewing to identify confined spaces in factory to have related manage procedures or handle it better.

Point 9 : Factory will review procedure , searching equipment suppliers and training for electrician on this requirement.

Company Action Plan Update

Completed

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

During worker interviews, more than 60% of workers stated that they rarely use the suggestion boxes or factory hotline because they are not aware of the grievance process, they are not sure how the factory will deal with their suggestions or complaints, and do not know if they can raise their concerns anonymously. Although the factory provides an orientation for the workers, there is no ongoing training on the grievance mechanisms. [ER.1, ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1, ER.25)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory will add training for all workers on related policies . Once completed the communication, training and evaluate the performance of people in charge and relevant workers, our admin team will review the process in conjunction with people in charge to uncover whether this will be a sustainable process for both of us.

Company Action Plan Update

The factory has delivered Training awareness for employees 2018

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. A pat-down is applied to all workers as they are leaving the factory after work. The pat-down is conducted by security guards who are the same gender as the workers. [H/A.10]

2. The process for handling labor discipline does not meet the requirements of local law in the following ways: 1) There is no meeting with relevant parties such as trade unions, related workers, or human resources personnel; 2) There is no review process for exceptional cases of labor discipline; 3) Labor discipline decision letters are not issued; 4) About 60% of the disciplinary records kept at the factory do

not have the signatures of relevant parties. [ER.27, ER.2]

3. Labor discipline records are not kept in worker personnel files. [ER.27]

4. There is no third-party witness while disciplinary actions are taken. [ER.27]

Local Law or Code Requirement

Decree 05/2015/ND-CP, Article 30; FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.27; Harassment or Abuse Benchmark H/A.10)

Recommendations for Immediate Action

Immediately cease conducting pat-downs for workers at the factory. Only conduct pat-down and/or search when there is evidence of theft and with the permission from the relevant authorities.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Point 1 : The top management informed that prohibiting using physical pat down to security team, managers, supervisors and all employees.

Point 2 : Factory will update discipline procedure and following it as local law requirement.

Point 3 : All discipline records are kept in same file for all workers for easy find out documents but all information is clearly for check.

Point 4 : All discipline records found up to the audit were Minor issues related to Health and Safety of work and There were attendance of Factory's Trade Union while process . Factory will consider for request a third-party as auditor suggestion.

Company Action Plan Update

The factory has published Notification of pat-down prohibition and update discipline records.

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comments: The Vietnam constitution guarantees Freedom of Association. However, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – The Vietnam General Confederation of Labour (VGCL). 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 Vietnam fall short of the ILO standards on the right to organize and bargain collectively. [FOA.2]

2. The Chairman and Vice Chairman of the factory Labor Union are factory management. The Chairman is the Production Manager Assistant, and the Vice Chairman is the Human Resource Manager. [FOA.10]

3. All the Labor union representatives are nominated by the factory management instead of being selected by workers directly. About 70% workers interviewed do not know the name of the Chairman and representatives of the Trade Union. [FOA.10, FOA.11]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, and FOA.11)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory's trade union established by congress as local trade union law and also have approval for members . Factory will have ideas with members of trade union on related of the audit / training for workers

Factory committed , no participate designation for union members. Managers ensure favorable conditions, transparent for workers select representatives of them .

Company Action Plan Update

Trade union establishment

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The labor contracts do not specific the regular working hours as per law required. It just states eight hours per day generally. [HOW.1.1]

2. Three boiler operators normally come to work at 7:30 am to prepare for production, but work officially begins at 8 AM. The 30 minutes of overtime is not recorded properly. [HOW.1, ER.23]

3. The factory does not provide a breastfeeding room for workers. [ND.8]

Local Law or Code Requirement

Vietnam Labor Code, Article 104; Decree 45/2013/ND-CP, Article 3; Decree 05/2015/ND-CP, Article 4. FLA Workplace Code (Employment Relationship Benchmark ER.23; Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. Insert the factory's regular working hours into the labor contracts according to legal requirements.

2. Ensure all working hours are recorded properly.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1/ Factory assigned HR department review related documents / procedure and corrected and revised accordingly. (point 1&2).

2/ Factory has been arranged a room using for breastfeeding of workers .

Company Action Plan Update

The factory has updated the Labor contract and provide the Breastfeeding room.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not keep payment settlement records for workers who leave the factory without notice. Therefore, it could not be verified whether these workers have actually received termination payouts. [ER.19, ER.2, ER.32]

2. Three boiler operators normally come to work at 7:30 am to prepare for production, but work officially begins at 8:00 AM. The factory does not pay for the extra 30 minutes of work for those workers. [C.5]

3. A pre-production meeting is required several times per week (5 -10 minutes each time.) These meetings are held before work officially begins. The factory does not pay workers for these overtime hours. [C.5]

4. The factory does not calculate annual leave starting at the date that workers joined. This practice is not in line with local law. For example, workers who join the factory after the 15th of the month have their annual leave calculated starting the first of the following month. [C.5, HOW.14, HOW.11, ER.22]

5. The factory has not registered the new wage scale for 2018 as per the legal requirement. [C.1]

Local Law or Code Requirement

Vietnam Labor Code, Article 47, 97, 102, and 103; Decree 49/2013/ND-CP, Article 7; Decree 85/2015/ND-CP, Article 7; FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.19, ER.22, and ER.32; Compensation Benchmarks C.1 and C.5; Hours of Work Benchmarks HOW.11 and HOW.14)

Recommendations for Immediate Action

1. Prepare the final payout and notify resigned workers, including workers who leave the factory without advance notice.
2. Pay all hours worked, including pre-production activities required by the factory, and ensure that all workers are paid for overtime hours.
3. Provide annual leave for workers as calculated from the date they joined the factory. Round up when calculating workers' annual leave, as required by local law.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Point 1 : Factory updated payment policy / procedures with steps applied in case workers leave without notice for factory . The processing including records for reviews.

Point 2&3 : The Board of Directors (BOD) will have a meeting to discuss and set up the commitment to manage working hours and prohibiting pre-production meeting or work overtime without managers' permission. And BOD committed that to ensure pay all employees for work overtime.

Point 4 : The factory has immediately adjusted and provided the annual leave from the joining date and ensure to round up when calculating the annual leave for workers as required local law

Company Action Plan Update

The factory has established the Resign and payment procedure and Registered wage scale 2018.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory does not hire any disabled workers, as encouraged by local law. [ND.1]
2. The job application forms include questions regarding marital status, which may lead to discrimination during the recruitment process. [ND.1, ND.2, ND.4]
3. Based on a review of the job application form and confirmed through worker and management interviews, rosters, and personnel files, it was found that the factory only hires candidates who are older than 18 years. [ND.2, ER.3]
4. The factory does not conduct performance reviews and salary reviews for workers who sign indefinite labor contracts, with the exception of new workers during their probation period. [ER.29]

Local Law or Code Requirement

Vietnam Labor Code, Article 8; FLA Workplace Code (Employment Relationship Benchmarks ER.3 and ER.29; Nondiscrimination Benchmarks ND.1, ND.2 and ND.4)

Recommendations for Immediate Action

1. Remove questions regarding marital status from the job application forms.

2. Revise the candidate age limit from 18 to 15 years old, the local legal minimum working age.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory updated the job application form, removed the question regarding to marital status and revised the candidate age limit is 15 years old as the requirement.

Factory updated performance policy with principles to be reviewed salary when sign new labor contract.

The factory's hiring policy have not contents not hire disabled workers.

Company Action Plan Update

The factory has updated the interview form

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

Although the factory assigns responsibility for the following Employment Functions, they are not documented in writing: Recruitment, Hiring and Personal Development, Compensation, Hours of Work, Termination and Retrenchment, Industrial Relations, and Grievance System. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory updated on related policies as audit requirement.

Company Action Plan Update

The factory has established procedures and delivered training for workers on:

- Performance review procedure
- Personnel development procedure
- Working hours management procedure
- Resign and payment procedure
- Industrial relations and freedom of association procedure
- Disciplinary procedure
- Grievance procedure

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory has not conducted management or internal reviews to ensure that policies and procedures are updated according to local laws and the FLA Workplace Code and Benchmarks for any of the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination and Retrenchment, Industrial Relations, Workplace Conduct and Discipline,

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

We will use update procedures to communicate, train for person in charge, performance review and implementation track.

Once we have completed the communication, training and evaluate the performance of people in charge, our admin team will review the process in conjunction with people in charge to uncover whether this will be a sustainable process for both of us.

Company Action Plan Update

The factory has established procedures and delivered training for workers on:

- Performance review procedure
- Personnel development procedure
- Working hours management procedure
- Resign and payment procedure
- Industrial relations and freedom of association procedure
- Disciplinary procedure
- Grievance procedure

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. With the exception of policies and procedures related to Health, Safety and Environment, the factory does not effectively communicate policies and procedures or their updates to the general workforce. Based on worker interviews, 60% of workers are not well aware of the policies and procedures related to the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct, and Grievance System. [ER.1, ER.16, ER.25, ER.27, ER.32, C.17]

2. The worker integration component is missing across all Employment Functions except Health Safety and Environment. This indicates that the factory has not established procedures to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1, ER.16, ER.25, ER.27, C.17]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, ER.25, ER.27 and ER.32; Compensation Benchmark C.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory will hold additional training for all workers on related policies of factory. Once completed the communication, training and evaluate the performance of people in charge and relevant workers, our admin team will review the process in conjunction with people in charge to uncover whether this will be a sustainable process for both of us.

Company Action Plan Update

The factory has delivered training awareness for employees 2018

FINDING NO.14

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory's policy on performance reviews does not outline related steps and processes, demonstrate linkages to job grading, or ensure that written feedback is provided. [ER.28, ER.29, ER.30]
2. The factory has not established procedures on Personnel Development; therefore, the factory does not have specific career paths or skill development plans for workers. [ER.29]
3. The factory does not have a written procedure for managing working hours. The factory also does not have policies and procedures regarding Hours of Work for special categories of workers. [ER.23]
4. The factory does not have a written policy and procedure on Retrenchment. The factory also does not have written guidance on the calculating final payouts. [ER.1, ER.32, ER.19]
5. The factory's policy and procedures for Industrial Relations and Freedom of Association only covers Freedom of Association, without addressing Industrial Relations. [ER.25]
6. The Workplace Conduct & Disciplinary procedures do not include the steps of the disciplinary processes, such as recording, filing & appeal processes, and the exceptional cases as required by local law. [ER.27]
7. The factory's Grievance procedure is incomplete and lacks the following information: 1) The procedure does not allow a direct settlement of the grievance by the worker and their immediate supervisor, nor options for senior management review; 2) The procedure does not mention how to handle anonymous cases nor how to report retaliation. [ER.25]

Local Law or Code Requirement

Decree 05/2015/NC-CP, Article 30; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.19, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30 and ER.32)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory will update and review related policies . Once we have completed the communication, training and evaluate the performance of people in charge and relevant workers, our admin team will review the process in conjunction with people in charge to uncover whether this will be a sustainable process for both of us.

Company Action Plan Update

The factory has established procedures for:

- Performance review procedure
- Personnel development procedure
- Working hours management procedure
- Resign and payment procedure
- Industrial relations and freedom of association procedure
- Disciplinary procedure
- Grievance procedure

FINDING NO.15

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide workers with orientation training or related written training documents on Industrial Relations practices, including Freedom of Association. [ER.15]

2. Except for Health, Safety and Environment, the factory does not provide specific training for managers and supervisors on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work; Termination & Retrenchment, Industrial Relations, Workplace Conduct, and Grievance System. [ER.1, ER.17]

3. Except for Health, Safety and Environment, the factory does not provide on-going training for workers on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct, and Grievance System. [ER.1]

4. The factory has not provided Health and Safety training for medical staff in group V. [HSE.1]

5. The factory did not provide annual refresh training for 41 fire-fighting team members, as required by local law. [HSE.5, HSE.6]

Local Law or Code Requirement

Decree 44/2016/ND-CP, Article 17; Circular 66/2014/ TT-BCA, Article 15. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, and ER.17; Health, Safety & Environment Benchmarks HSE.1, HSE.5 and HSE.6.)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory will hold additional training for all workers on related policies of factory. Once completed the communication, training and evaluate the performance of people in charge and relevant workers, our admin team will review the process in conjunction with people in charge to uncover whether this will be a sustainable process for both of us (point 1 to 4).

Factory trained / updated training for Medical staff and 41 fire-fighting team members (point 4, 5)

Company Action Plan Update

The factory has carried out training for:

- Training awareness for employees 2018".
- Health and Safety training for medical staff in group V".
- Refresh training for fire-fighting team members".