



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: PopSockets LLC
COUNTRY: China
ASSESSMENT DATE: 08/05/20
ASSESSOR: Openview
PRODUCTS: Apparel
NUMBER OF WORKERS: 379

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.

FLA Code Element	Number of Violations
Compensation	3
Hours of Work	6
Employment Relationship	4
Health, Safety, and Environment	6
Harassment and Abuse	1
Nondiscrimination	1
Freedom of Association	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

Job advertisement posted at the factory gate contains age requirements. For example, general production jobs require applicants between 18 to 35 years old. However, there are workers over 40 years old in current workforce. [ND.2.1]

Local Law or Code Requirement

FLA Workplace Code (Non-discrimination Benchmark ND.2)

Recommendations for Immediate Action

1. <!--[endif]-->Remove age requirement from the job advertisement. Employment decisions are to be made solely on the basis of a person's qualifications and abilities.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

The factory pays a fixed amount of overtime compensation to workers in the molding section (about 50 workers in total). The workers are paid:

- Before April 2020, workers were paid CNY 570 (USD 82) per month for weekday overtime hours
- Since April 2020, workers are paid CNY 504 (USD 72) to CNY 927 (USD 133) per month for weekday overtime hours from April 2020 payroll
- Before April 2020, workers were paid CNY 550 (USD 79) per month for rest day overtime hours
- Since April 2020, workers are paid CNY 399 (USD 57) to CNY 791 (USD 114) per month for rest day overtime hours.

As a result of having a fixed amount for overtime, some workers were paid insufficient overtime compensation during the reviewed period from July 2019 to June 2020. For example, one worker was paid CNY 816 (USD 117) and CNY 633 (USD 91) for overtime hours on weekday and rest day respectively in June 2020, while the time records showed 40 overtime hours on weekday and 34 overtime hours on rest day. Based on legal requirement, this worker should be paid CNY 593 (USD 85) for weekday overtime hours and CNY 672 (USD 97) for rest day overtime hours, indicating insufficient rest day overtime compensation in June 2020.

[C.7.2]

The factory does not take into consideration workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6]

The factory does not provide social insurance to all eligible workers. There are a total of 507 workers working in the factory, including five workers over the retirement age and eleven new hires. The factory only provides 274 out of 491 eligible workers (55.8%) with five types of social insurances in the latest payment month of July 2020. [C.1]

The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to pension insurance based on the local minimum contribution base of CNY 3,376 (USD 492) per month, contributes to work-related injury and unemployment insurances based on local minimum contribution base of CNY 2,906 (USD 423) per month, and contributes to medical and maternity insurances based on local minimum contribution base of CNY 3,500 (USD 510) per month, which is not in line with the legal requirement of contribution based on worker's average monthly wage of the previous year. About 95% of workers' average monthly wages of the previous year were above the local minimum contribution base of CNY 2,906 (USD 423). [C.10.1]

The factory does not contribute to the Housing Provident Fund for any workers. [ER.22.1]

Local Law or Code Requirement

The China Labor Law, Article 44 and Article 72; Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1, C.6, C7 and C10; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. Pay overtime compensation at the legal rate based on workers' actual overtime hours.
2. Calculate annual leave based on worker's cumulative working experience (working age).
3. Provide social insurance to all eligible workers.
4. Contribute to social insurance based on worker's average monthly wage of the previous year.
5. Provide all workers with the legally required Housing Provident Fund.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The factory sets the production plan based on 63 to 66 hours per week (a total of six days per week with three overtime hours on each workday and eight to eleven overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work 23 to 26 overtime hours per week. [ER.24]

Working hours exceed 60 hours a week. Time records for the period from July 2019 to July 2020 indicate that the weekly working hours for about 90% of workers exceeded 60 hours in one to four weeks per month in all reviewed months, with a maximum of 91 hours in March 2020. [HOW.1.3]

The factory does not provide workers with one day off for every seven-day work period. Time records for the period from July 2019 to July 2020 indicate that about 90% of workers worked more than six consecutive days for once or twice per month in all reviewed months, with a maximum of 31 consecutive days in March 2020. [HOW.2]

Overtime hours exceed the legal limit of three overtime hours per day and 36 overtime hours per month. Time records for the period from July 2019 to July 2020 indicate that the daily overtime for about 50% of workers exceeded three hours for about 50% of workdays in the reviewed period with a maximum up to 6.5 hours in January 2020, and the monthly overtime for 95% of workers exceeded 36 hours in all reviewed months with a maximum of 215 overtime hours in March 2020. [HOW.1.1, HOW.8]

The factory does not provide workers pregnant for over seven months with one-hour rest time each day during work hours. [ND.8.1]
The factory pays 70% of the legal minimum wage for sick leave, which does not comply with the legal requirement that requires at least 80% of the legal minimum wage. [HOW.16]

Local Law or Code Requirement

The China Labor Law, Article 41; Regulation for the Payment of Wages in Guangdong Province, Article 24; Special Rules on the Labor Protection of Female Employees of Guangdong Province, Article 10; FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1, HOW.2, HOW.8 and HOW.16; Non-discrimination Benchmark ND.8)

Recommendations for Immediate Action

1. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. Control total working hours to below 60 hours per week.
3. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
4. Ensure overtime hours do not exceed the legal limit of 3 hours per day and 36 hours per month.
5. Provide one-hour rest time each day during work hours to female workers pregnant for over seven months.
6. Pay at least 80% of the legal minimum wage for sick leave based on legal requirement.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

The factory posts the disciplinary action notification forms on the notice board with the names of sanctioned workers, which are posted for about one week. [H/A.6]

Local Law or Code Requirement

FLA Workplace Code (Harassment or Abuse Benchmark H/A.6)

Recommendations for Immediate Action

1. Stop the practice of posting names of sanctioned workers on the notice board.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

All 14 union representatives were appointed by factory management on November 11, 2019. Chairman of the union is Manager of General Affairs Department, and other representatives are supervisors or assistants of each department. [FOA.11]

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 and FOA.11)

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The fire alarms in production and dormitory buildings are not centralized and without backup battery power. [HSE.5.1]
The factory has never conducted the inspection of the lightning protection system in both production and dormitory buildings. [HSE.13]
The water pressure at two out of two eyewash stations is too low to satisfy emergency use. [HSE.6.1]
The factory does not install explosion proof electrical switches or ceiling fans in the paint mixing room. [HSE.9.1]
The factory does not provide pre-job, on-job, or post-job occupational health examination to all workers with hazardous exposure to chemicals, dust, and noise. The occupational hazard factor testing report in September 2019 indicates that the factory should provide occupational health examination to 230 workers. However, the factory only provided pre-job occupational health examination to 4 workers, on-job occupational health examination to 46 workers, and post-job occupational health examination to 3 workers in October 2019. [HSE.1]

Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention, Article 10.1.6; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; Health Standard for Design of Industrial Enterprise, Article 7.3.2 and Article 8.3; The Regulation for Safety of Dangerous Chemical, Article 20; The PRC Law of Prevention and Control of Occupational Diseases, Article 35; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.5, HSE.6, HSE.9 and HSE.13)

Recommendations for Immediate Action

1. Install the centralized fire alarm system with backup battery in production and dormitory buildings.
2. Conduct the annual inspection of the lightning protection system and maintain inspection reports.
3. Ensure proper water pressure for eyewash stations.
4. Install explosion proof electrical devices in the paint mixing room.
5. Provide occupational health examination to all eligible workers.