



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: The s. Oliver Group

COUNTRY: China

ASSESSMENT DATE: 09/23/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 1350

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	1
Hours of Work	3
Employment Relationship	3
Health, Safety, and Environment	4

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6, HOW.11]
2. The factory does not provide social insurance to all eligible workers. There are total 1,257 workers, including 91 retired but re-recruited workers. The factory provides five types of social insurance including work-related injury, unemployment, medical, maternity and pension insurances to 1,036 out of 1,166 eligible workers (89%). [C.1]
3. The contribution base of the five types of social insurance is not in line with the legal requirement. The factory contributes to the five types of social insurances based on local minimum requirement of CNY 3,322 (USD 489) per month, which is not in line with the legal requirement of contribution based on workers' average monthly wage of previous year. About 90% of workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,600 (USD 530) to CNY 8,500 (USD 1,251). [C.10.1]
4. The factory does not provide the legally required Housing Provident Fund to all eligible workers. According to Housing Provident Fund receipt and name list for September 2020, the factory contributed to Housing Provident Fund for 812 out of 1,166 eligible workers (70%). [ER.22.1]
5. The contribution base of the Housing Provident Fund is not in line with the legal requirement. The factory contributes to the Housing Provident Fund based on CNY 1,800 (USD 264) per month, which is not in line with the legal requirement of contribution based on workers' average monthly wage of the previous year. All 812 workers' average monthly wages of the previous year were higher than CNY 1,800 (USD 264), ranging from CNY 3,600 (USD 530) to CNY 8,500 (USD 1,251). [ER.22.2]

Local Law or Code Requirement

Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; The China Labor Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15 and Article 16. FLA Workplace Code (Compensation Benchmarks C.1, C.6 and C.10; Employment Relationship Benchmark ER.22; Hours of Work Benchmark HOW.11)

Recommendations for Immediate Action

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

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory does not have a system to ensure female workers pregnant for seven months and above are provided with one-hour paid rest break each day during working hours and not arranged to work overtime. Currently, there is one female worker pregnant for seven months and above in the factory. This worker is not provided with one-hour paid rest break each day during working hours and arranged to work same overtime hours as other workers. [ND.8.1]
2. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from September 2019 to August 2020 and worker interviews indicate that the monthly overtime hours for 90% of workers exceeded 36 in all reviewed months except January and February 2020, with a maximum of 67 hours in August 2020. [HOW.1.1, HOW.8]
3. The factory did not provide workers with one day off every seven days over four weeks in the past 12 months. Time records for the period from September 2019 to August 2020 and worker interviews indicate that almost all workers worked seven consecutive days from September 15 to 21, 2019, eight consecutive days from September 23 to 30, 2019, seven consecutive days from October 6 to 12, 2019, and ten consecutive days from February 13 to 22, 2020. As per factory management, it was because of the tight delivery schedule. [HOW.2]
4. The factory sets the production plan based on 48 to 60 hours per week (three overtime hours per day on up to four workdays and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eight to twenty overtime hours per week. [ER.24]

Local Law or Code Requirement

Special Rules on the Labor Protection of Female Employees of Zhejiang Province, Article 9 and Article 12; The China Labor Law, Article 38 and Article 41. FLA Workplace Code (Non-discrimination Benchmark ND.8; Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.2)

Recommendations for Immediate Action

1. Provide one-hour paid rest break each day during working hours to female workers pregnant for seven months and above. Ensure female workers pregnant for seven months and above do not work overtime.
2. Ensure overtime hours do not exceed the legal limit of 36 hours per month.
3. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
4. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
5. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:

1) Implement FLA Principles of Fair Labor and Responsible Sourcing and

2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:

a. How to provide better order forecasts to the factories;

b. Possible workshops/consultancy for the factory on how to improve productivity/quality;

c. Clear guidelines on how to extend shipment deadlines in case of contingencies;

d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and

Social Compliance teams);

e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. 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, FOA.10]

Local Law or Code Requirement

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

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has not installed backup battery for the fire alarms in the dormitory and canteen buildings. [HSE.5.1]
2. Building #4 was constructed in 2007, with a floor area of 4,368 square meters and a building area of 15,880 square meters. However, the factory has not installed an automatic fire extinguishing system in this building. [HSE.6.1]
3. The factory does not conduct the occupational hazards test on an annual basis. The last occupational hazards test was conducted on August 9 to 10, 2019. [HSE.4]
4. The factory stores materials against the wall with no clearance in the raw material warehouse, which is not in line with the legal requirement of at least 0.5m clearance from the wall. [HSE.1, HSE.14]

Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention, Article 8.3.1 and Article 10.1.6; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; Rules for Warehouse Fire Prevention Safety Management, Article 18. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5, HSE.6 and HSE.14)

Recommendations for Immediate Action

1. Install backup battery for the fire alarm system in the dormitory and canteen buildings.
2. Install an automatic fire extinguishing system in workshops and warehouses as per legal requirement.
3. Conduct the annual occupational hazards test and obtain the test report.

4. Store materials with at least 0.5m clearance from the wall in the raw material warehouse as per legal requirement.