



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Volcom  
COUNTRY: China  
ASSESSMENT DATE: 10/26/20  
ASSESSOR: Openview  
PRODUCTS: Apparel  
NUMBER OF WORKERS: 165

## 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                   | 5                    |
| Employment Relationship         | 3                    |
| Health, Safety, and Environment | 4                    |
| Freedom of Association          | 2                    |

## 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. There are 148 workers in the factory, including 40 retired but re-recruited workers. The factory provides all five types of social insurance, including work-related injury, medical, maternity, unemployment and pension insurances, to all 108 eligible workers. However, the factory contributes to the five types of social insurance based on the local minimum requirement of CNY 3,368 (USD 503.2) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of the previous year. About 90% of workers' average monthly wages of the previous year were higher than local minimum contribution base, ranging from CNY 3,369 (USD 503.4) to CNY 6,000 (USD 897). [C.10.1]
3. The factory provides the Housing Provident Fund to all 108 eligible workers. However, the factory contributes to Housing Provident Fund based on the local minimum requirement of CNY 1,830 (USD 273) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of the previous year. All workers' average monthly wages of the previous year were higher than local minimum contribution base, ranging from CNY 3,200 (USD 478) to CNY 6,000 (USD 897). [ER.22.2]
4. The Employee Handbook indicates that the factory calculates sick leave as unpaid leave. No worker has ever applied for sick leave and none of interviewed workers is aware of the sick leave. [HOW.16]

##### Local Law or Code Requirement

The Implementation Measures for Employee Paid Annual Leave, Article 4; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 16; Opinion of the Ministry of Labor on Several Questions concerning the Implementation of the China Labor Law, Article 59. FLA Workplace Code (Compensation Benchmarks C.6 and C.10; Hours of Work Benchmark HOW.16 and HOW.11; Employment Relationship Benchmark ER.22)

##### Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).

2. Contribute to social insurance based on worker's average monthly wage of the previous year.
3. Contribute to the Housing Provident Fund based on worker's average monthly wage of the previous year.
4. Provide workers with paid sick leave as per legal requirement.

## FINDING NO.2

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

1. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from October 2019 to October 25, 2020 and worker interviews indicate that about 50% of workers monthly overtime hours exceeded 36 from January to April 2020 and about 70% of workers' monthly overtime hours exceeded 36 in all the other reviewed months, with a maximum of 82.5 overtime hours in August 2020. [HOW.1.1, HOW.8]
2. The factory sets the production plan based on 48 to 58 hours per week (up to two point five overtime hours per day on up to four workdays plus eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eight to 18 overtime hours per week. [ER.24]
3. There is one sewing worker in lactation period in the factory. The factory has arranged this worker to work same overtime hours as other workers since she resumed work in June 2020 after maternity leave, including two point five overtime hours at night on two to four weekdays and eight overtime hours on Saturdays. [ND.8.1]

##### Local Law or Code Requirement

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

##### Recommendations for Immediate Action

1. Ensure overtime hours do not exceed the legal limit of 36 hours per month.
2. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
3. Ensure female workers in lactation period do not work overtime.
4. 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

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Industrial Relations

##### Finding Explanation

1. The Union Chairman is the HR Manager, and all the other seven union committee members are department managers and supervisors. They are appointed by top factory management and Federation of Trade Unions. [FOA.11]
2. The Collective Bargaining Agreement (CBA) was created by the factory management based on the agreement between worker representatives (managers and supervisors) and management. The CBA does not provide any additional benefits to workers and simply restates the factory procedures and legal requirements. None of workers are provided with a copy of the CBA and none of the interviewed workers are aware of the CBA. [ER.16.2]
3. 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, FOA.10 and FOA.11, Employment Relationship Benchmark ER.16)

##### Recommendations for Immediate Action

1. Ensure all union committee members are freely elected by all workers.
2. Provide a copy of the CBA to each worker.

## FINDING NO.4

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory stores materials against the wall with no clearance in the material warehouse, which is not in line with the legal requirement of at least 0.5m clearance from the wall. [HSE.1]
2. The factory has not installed backup battery for the fire alarms in production buildings. [HSE.5.1]
3. The factory does not keep a food sample in canteen. [HSE.22.1]
4. The factory has not conducted the pre-assessment of occupational disease hazards or the assessment of the effects of occupational disease hazards prior to the acceptance check of the construction project since the construction was completed in 2010. The factory has also not contracted a licensed service provider to conduct the assessment of current conditions of occupational disease hazards. [HSE.4]
5. The factory outsources a certified institution to conduct occupational hazards test every year. The latest report was released on December 31, 2019 and the test result complies with legal requirement. However, the factory does not post the annual occupational hazards test report to the embroidering and cutting positions with exposure to occupational health risks. [HSE.1]

##### Local Law or Code Requirement

Rules for Warehouse Fire Prevention Safety Management, Article 18; Code for design of automatic fire alarm system (GB50116-2013), Article 10.1.1; Food Safety Operation Specifications for Catering Service, Article 7.9.2; The China Law of Prevention and Control of Occupational Diseases, Article 17, Article 18, Article 20 and Article 24. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5 and HSE.22)

### Recommendations for Immediate Action

1. Store materials with at least 0.5m clearance from the wall in the material warehouse as per legal requirement.
2. Install backup battery for all alarms.
3. Keep food sample for at least 48 hours as per legal requirement.
4. Contract a licensed service provider to conduct the assessment of current conditions of occupational disease hazards.
5. Post the annual occupational hazards test report to the positions with exposure to occupational health risks.