



FAIR LABOR
ASSOCIATION™

**Fair Labor Association
Year Two
Annual Public Report
Part 3 of 4**

Published August 18, 2004

This is the third of four parts of a printer-friendly version of the Fair Labor Association's Year Two report, which was designed for website use. Therefore, some of the website features (including links and layering) have been modified or removed from this print version. Please access the FLA's website, accessible at www.fairlabor.org/2004report, to utilize these features.

Please note also that the FLA publicly reports on all of its independent external monitoring visits on a factory-by-factory basis. Those reports, which are called FLA tracking charts, complement the FLA's annual public report by providing very detailed information about selected factories. The tracking charts can be found at <http://www.fairlabor.org/all/transparency/reports.html>

Please direct questions about the report to info@fairlabor.org.

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- | | |
|---|------------------------|
| 1) adidas-Salomon | 2) Eddie Bauer |
| 3) GEAR for Sports | 4) Liz Claiborne |
| 5) Nike | 6) Nordstrom |
| 7) Patagonia | 8) Phillips-Van Heusen |
| 9) Reebok (including Reebok footwear, an FLA-accredited compliance program) | |
| 10) Zephyr-Graf-X | |

In Part Two:

B. Category B Licensees

- | | |
|--------------------------------|-------------------------------|
| 1) American Pad and Paper, LLC | 2) Commemorative Brands, Inc. |
| 3) Cutter & Buck, Inc. | 4) Drew Pearson Marketing |
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| 9) MBI, Inc. | 10) New Era Cap Company, Inc. |
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III. FLA Independent External Monitoring in Year Two Summary and Analysis

A summary of the data that was collected through FLA independent external monitoring visits during the period January-December 2003.

During the FLA's second year of monitoring (referred to as Year Two), which took place January-December 2003, FLA-accredited monitors conducted 110 independent monitoring visits in twenty countries. During the visits, the monitors evaluated factory compliance with the FLA Workplace Code of Conduct and applicable national and local laws.

The reports from each of these 110 factory visits, along with company plans to remediate the reported noncompliance issues, are available to the public on the FLA website (<http://www.fairlabor.org/all/transparency/reports.html>). By reviewing individual factory reports, readers can learn about particular factory conditions and different companies' approaches to remediating various noncompliance issues.

This report is divided into two parts:

C. Facts and Figures

Provides an overview of the FLA's aggregate supply chain and the organization's approach to monitoring it in Year Two

D. Findings and Analysis

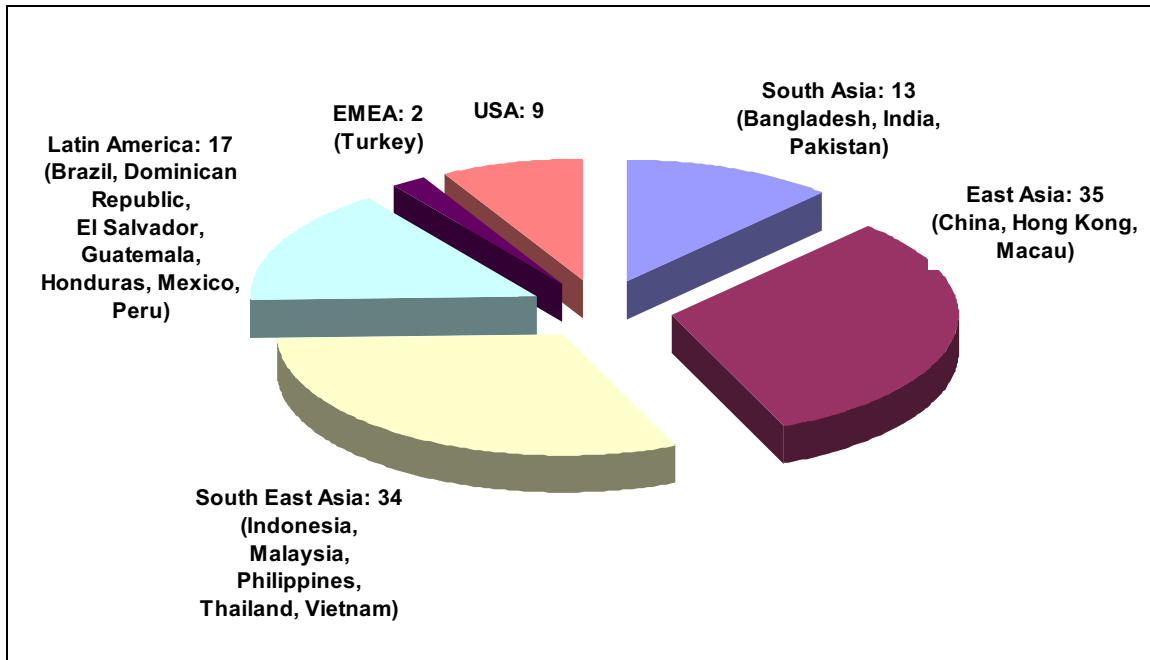
Makes various observations about monitors' findings for each FLA Code provision

A. FLA Independent External Monitoring: Facts and Figures

In 2003, the FLA conducted independent external monitoring (IEM) visits to 110 facilities worldwide, representing approximately 5 percent of each company's applicable factory base in high-risk regions. In total, ten FLA-accredited monitoring groups spent over 1,056 person days monitoring 110 facilities worldwide, averaging 9.6 person days per monitoring visit.¹ Of these 110 visits, 31 were 'shared', meaning that two or more FLA-affiliated companies or licensees sourcing in the same facility participated in the remediation of the noncompliance issues reported by the FLA monitor. Shared audits enable companies to have a greater impact throughout their supply chains. Working together, companies pool resources to achieve shared goals; streamline the corrective actions required at a factory; share experiences in remediating particular noncompliance issues; and have greater leverage in making changes in the factory.

FLA Year Two IEM visits were conducted in 20 countries, with the greatest number occurring in East Asia (Graph 1.1).

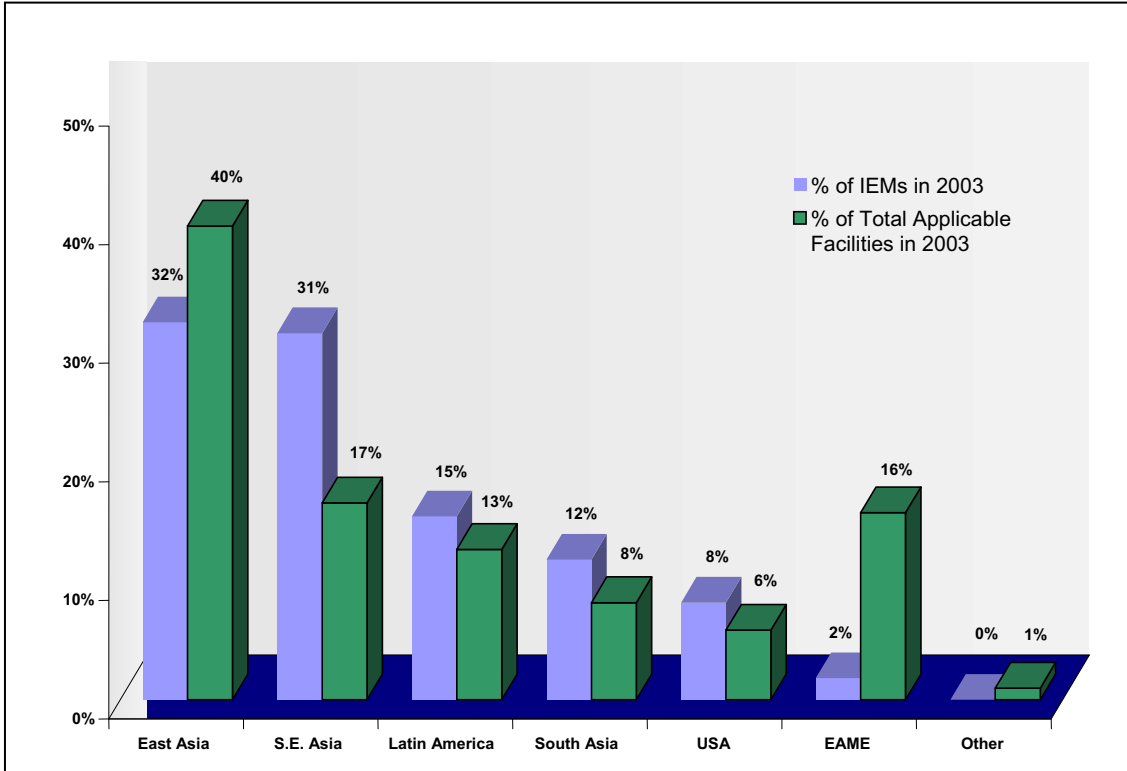
Graph 1.1: FLA IEMs in Year Two – Regional Distribution



The regional breakdown of FLA monitoring visits roughly reflects the distribution of factories contracted by FLA affiliated companies, with the notable exceptions of two regions: Europe, Africa, Middle East (EAME) and Southeast Asia (Graph 1.2). This discrepancy is due to the weighting system in the software used to select IEMs; the software gives factories in higher-risk countries a preference for selection. While FLA companies have a significant number of factories in EAME (16 percent), other regions, such as East and Southeast Asia, are considered higher-risk regions. The location of monitoring visits is also influenced by the presence of FLA-accredited monitors in a given country. With a view to ensuring the flexibility of the FLA's independent monitoring program, the FLA is working to increase the number of monitors in key locations in addition to improving monitor training and audit tools.

¹ The term 'person days' refers to the number of audit days, counting each auditor separately. For example, if a monitoring team consisting of 3 auditors spends 3 days in a facility, it would be considered a 9 person day audit.

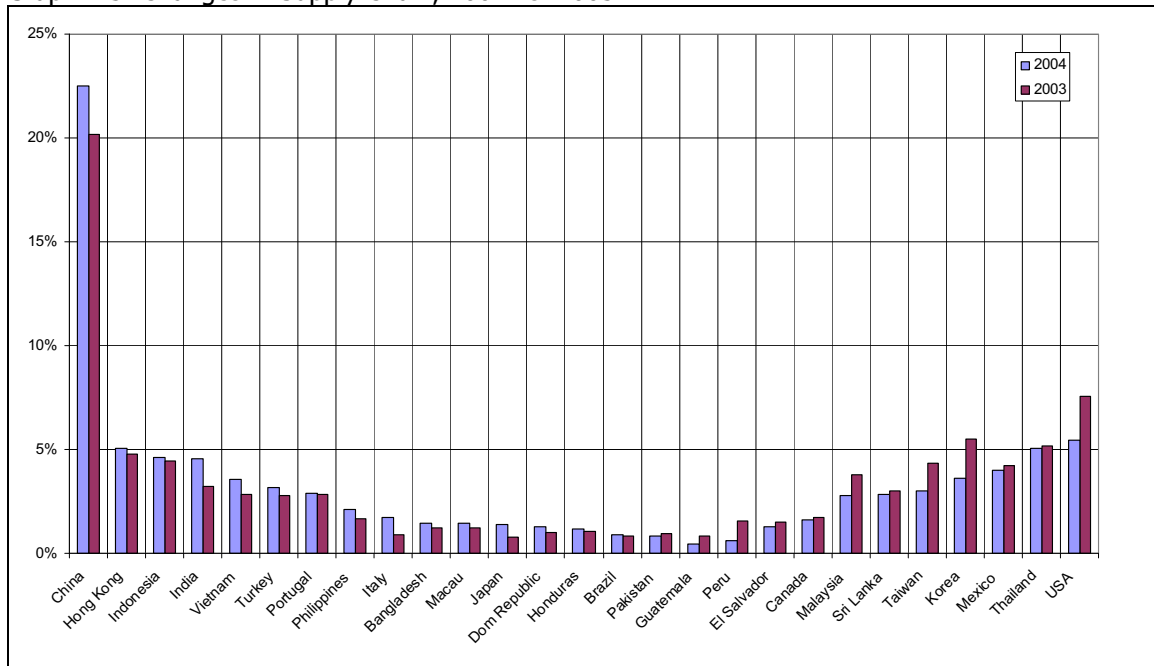
Graph 1.2: Company Sourcing and FLA IEM Locations in Year Two



According to Year Two data, FLA companies continue to shift the regional distribution of their applicable facilities. While each company has a different sourcing strategy, most FLA companies have increased the number of factories that they contract in China. The number of factories contracted by FLA companies has increased in East and Southeast Asia more generally, while the number of factories in Latin and North America has decreased. These developments are especially interesting in light of the upcoming phase-out of the Multi-Fiber Arrangement² quota system on January 1, 2005. Graph 1.3 shows the sourcing changes of FLA companies from 2003 to 2004 and highlights select 'Gains' and 'Losses.'

² The MFA was established in 1974 to reconcile interests of textile-exporting and textile-importing countries by establishing quotas. These quotas set parameters for international trade based on textile. Under the Uruguay Round agreement, countries agreed to eliminate the MFA quotas in phases to begin July 1, 1995 and to end July 1, 2005. Many believe that eliminating quotas will lead to increased sourcing in China and other countries and to decreased sourcing in others. For additional information see the following memo: <http://www.theglobalalliance.org/pdf/yanz-fiber-article.PDF>

Graph 1.3: Changes in Supply Chain, 2004 vs. 2003



The 110 FLA monitoring visits took place in apparel, footwear, and equipment facilities. Ninety-seven visits were conducted in apparel factories, meaning the remaining 13 focused on footwear and equipment facilities. One notable difference between FLA company presence in apparel factories versus footwear factories was that each company tended to represent a considerably smaller percentage of total factory production in apparel facilities. A given apparel factory generally had many more brands buying from it, as companies tended to spread sourcing across many more facilities. Apparel factories also tended to have fewer workers; for example, the average FLA-monitored apparel factory had 972 workers, whereas the average FLA-monitored footwear facility had 5,883 workers.

Table 1.1 provides a profile of the aggregate workforce present in FLA monitored facilities, and the interviews conducted in the audited factories. More than 3,000 of the workers who were present at FLA-monitored facilities in Year Two were interviewed during the reporting period.

Table 1.1: Population Profile of FLA Independently-Monitored Factories*			
	Female	Male	Total
Work Force			
Total	118,121	34,874	152,999
Average/factory	1,135	336	1,471
Interviews Conducted			
Total	2,390	992	3,382
Average/factory	23	9	32

* Please note that these numbers only represent the factory populations of 104 of the 110 factories subject to IEM's in Year Two. Information on the remaining 6 facilities was not available at the time this section was drafted.

B. FLA Year Two Independent External Monitoring (IEM): Findings and Analysis

This section provides an overview of the aggregate findings of FLA independent external monitoring (IEM) visits conducted in Year Two. As is evident from a review of FLA factory tracking charts (<http://www.fairlabor.org/all/transparency/reports.html>), information collected during FLA monitoring visits is qualitative in nature. In the interest of tracking trends and making comparisons, the FLA has translated qualitative information collected during IEM visits into quantitative data.

Understanding the data reported in this section

To better understand how the data reported in this section was composed, take for example the FLA Code provision relating to Harassment or Abuse. While the Workplace Code states "Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse," the FLA Benchmarks provide monitors with more detailed guidance about the meaning of FLA Code provisions.ⁱ If a monitor observes while conducting a monitoring visit that 1) workers are not allowed access to toilets, and 2) a particular manager is verbally abusive, he/she would report two distinct instances of noncompliance to the FLA, even though both represent noncompliance with the same Code provision.

On the other hand, if a monitor observes several instances of noncompliance with a single benchmark, these will be counted as one noncompliance issue for a given factory. For example, if a monitor observes restrictions to toilets in different sections of the factory, these distinct instances of noncompliance would only be cited once under Harassment or Abuse. In this sense, the frequency of noncompliance with a particular Code provision can provide some general sense of factory conditions and monitor findings, but does not necessarily represent the complete story. Additionally, because the investigations are qualitative and not quantitative in nature, the numbers represented here should not be taken as hard statistics. Rather they should be understood as indication of trends in the FLA supply chain.

The FLA is working to develop a database for improved processing and reporting of data collected during independent external monitoring visits. Please access individual factory tracking charts for a more comprehensive and detailed look at factory conditions.

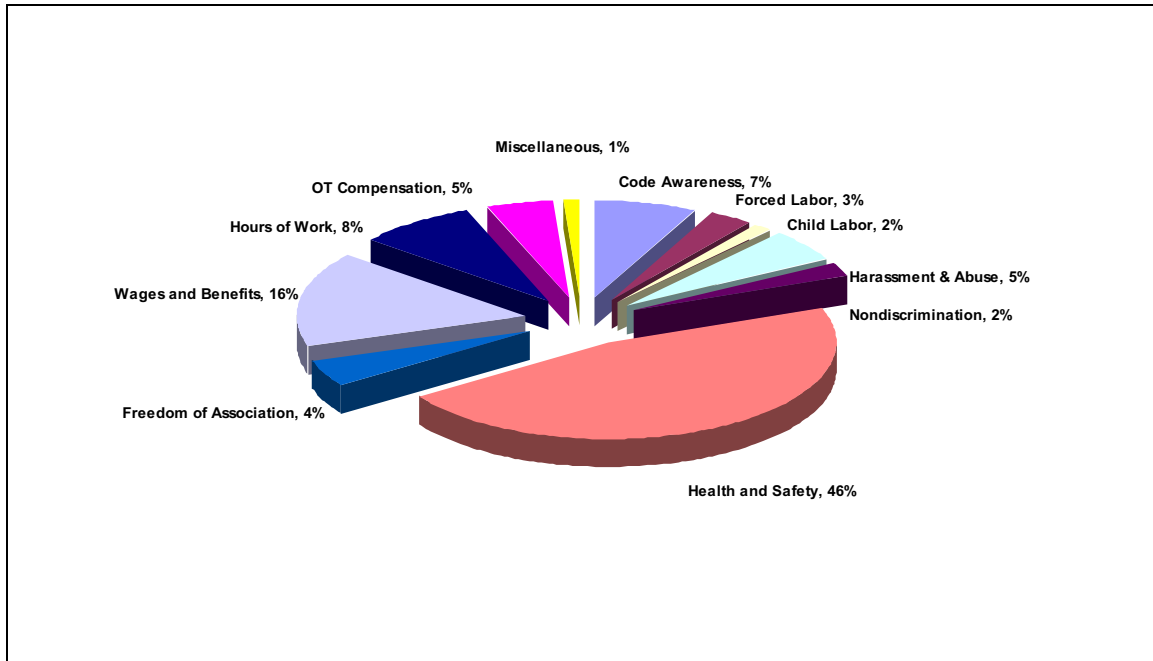
FLA findings and analysis are reviewed in the following sections:

- 1) Considering IEM Findings in Terms of FLA Workplace Code Provisions: An Overview
- 2) Health and Safety
- 3) Wages and Benefits
- 4) Hours of Work
- 5) Overtime Compensation
- 6) Freedom of Association and Collective Bargaining
- 7) Code Awareness
- 8) Forced Labor
- 9) Child Labor
- 10) Harassment or Abuse
- 11) Nondiscrimination
- 12) Miscellaneous

1) Considering IEM Findings in Terms of FLA Workplace Code Provisions: An Overview

In Year Two, independent external monitoring took place in 110 facilities. Monitoring findings from 105 of those visits have been compiled and processed for inclusion in this report. Findings from five facilities were not included in these data because full information was not available at the time of processing (the monitoring reports from those five facilities can be accessed at <http://www.fairlabor.org/all/transparency/reports.html>). As a result, this report focuses on 1,595 noncompliance issues that were observed in 105 factories. Graph 2.3 illustrates the breakdown of the total noncompliance issues by FLA Workplace Code provision.

Graph 2.3: FLA Year Two IEM Findings by Code Element



** Please note that these findings only represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.*

Comparing Monitoring Results from Year One and Year Two

The average number of noncompliance issues reported by FLA-accredited monitors in Year Two, 15.19 per factory increased by about 120 percent from Year One (July 2001-December 2002), when there were an average of 6.85 instances of noncompliance reported per factory. On the surface, this increase may signal an escalation in the rate of noncompliance; however, it is more likely that a combination of factors led to the increase in reported noncompliance. These include the FLA's focus on selecting high-risk facilities for monitoring; improvement in the quality of monitors selected by the FLA to conduct monitoring; and the fact that FLA monitors have become more acquainted with FLA monitoring tools and requirements.

A notable change in the FLA's system was the increased level of quality control of monitoring reports that the FLA headquarters staff exercised in Year Two, which is likely to have improved the rigor of monitoring results. The FLA staff examined every factory report, and reviewed areas that needed further clarification with monitors. It also circulated documents that focused on challenging noncompliance issues, such as Freedom of Association, and offered monitoring guidance that supplemented the FLA monitoring instrument. In some cases, FLA staff accompanied monitors on IEM visits to evaluate their approach to monitoring and reporting, and to help them to improve.

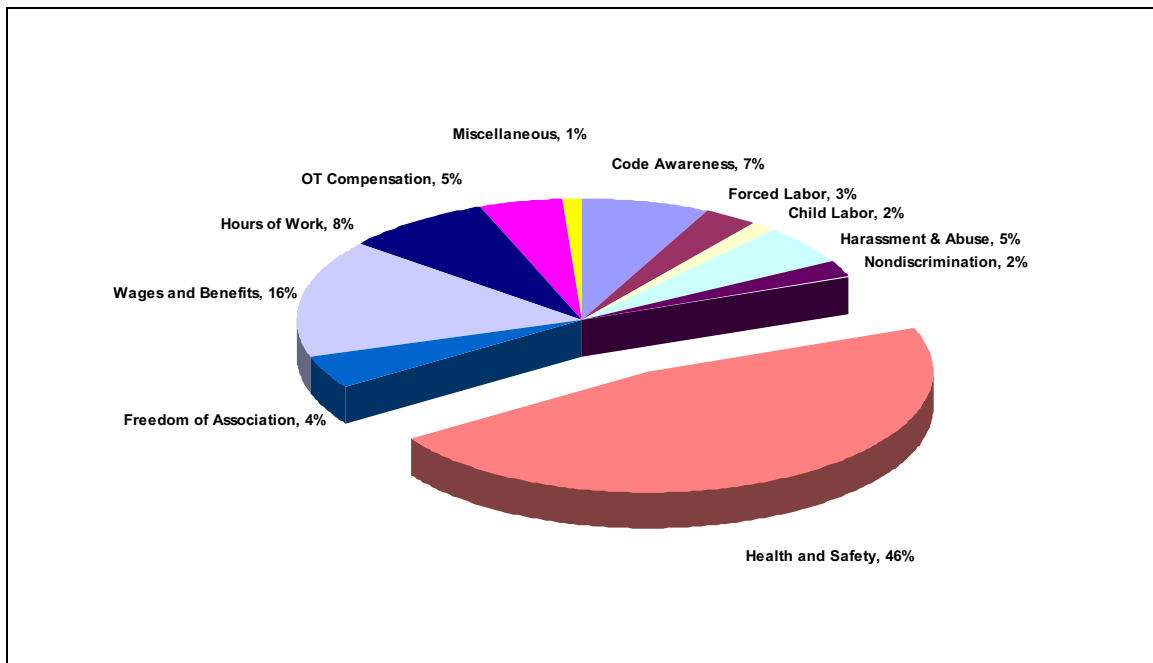
Despite such improvements over the course of Year Two, the FLA recognizes that there is a continued need to improve the quality of monitoring. Based on experiences in factories, it is apparent that FLA findings related to Code provisions, such as Freedom of Association, Harassment or Abuse, and Discrimination, do not mirror the realities on the ground. Improving the monitoring methodology and monitors' ability to utilize it can help to bring about necessary improvements in the quality of data that the FLA collects. To this end, the FLA has redesigned its monitoring instrument and is improving other aspects of the IEM process. The next Annual Public Report will provide more information about these improvements, and future Public Reports will also include more in-depth analyses of trends in factory compliance from year to year.

2) Health and Safety:

WORKPLACE CODE PROVISION: "Employers will provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities."

FLA Benchmarks for this provision are available in the endnotes.ⁱⁱ

Graph 2.4: FLA Year Two IEM Findings – Health and Safety



** Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.*

In all regions, the most commonly reported noncompliance issues related to Health and Safety, making up a total of 48 percent of all reported noncompliance in Year Two. As compared to other Code provisions, e.g., Freedom of Association, Harassment or Abuse, or Nondiscrimination, many Health and Safety issues are readily detectable through a careful visual and chemical inspection. This may in part explain its high rate of reported noncompliance vis-à-vis the other Code provisions. Nonetheless, the findings clearly indicate that Health and Safety issues are pervasive around the globe.

A breakdown of Year Two reported noncompliance issues tallied according to the Health and Safety benchmarks is provided in the endnotesⁱⁱⁱ.

In Year Two, FLA-accredited monitors uncovered some of the Health and Safety issues that are not strictly delineated in the FLA benchmarks, but which were important to bring to the attention of companies. For example, in one factory in Bangladesh, female workers were observed using the scrap dyed cloth from the factory floor for sanitary protection during menstruation and were therefore experiencing genital disorders. In another case in India, consultations with local resources showed that 80 percent of female garment workers were suffering from iron deficiency

anemia. Issues such as these require investigation of root causes, which necessitate a more comprehensive approach to monitoring. To this end, the FLA is developing a new monitoring instrument and methods for training monitors to uncover patterns in the occurrence of noncompliance. The FLA Sustainable Compliance Project is designed to identify and address root causes of noncompliance as well.

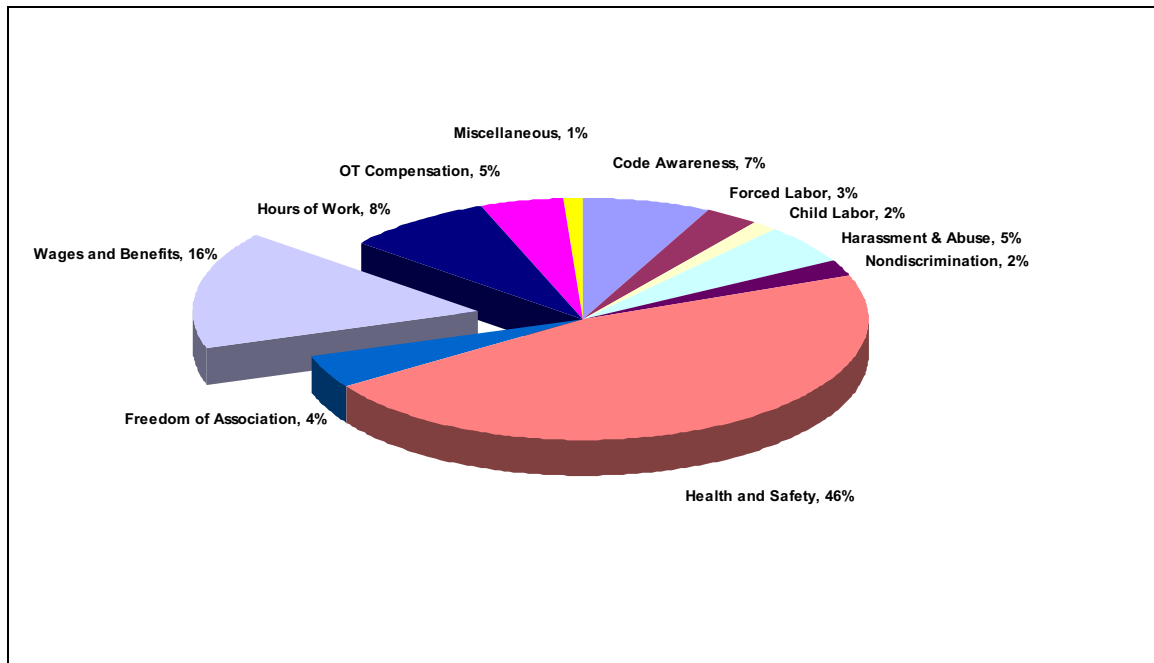
With regard to remediating Health and Safety noncompliance, various participating companies have moved to create factory systems that prevent such issues from recurring in the future. For instance, some companies have encouraged employees to participate in worker Health and Safety committees. In one independently monitored facility, a company worked with a factory to establish a position for a Health and Safety inspector who is responsible for monitoring Health and Safety compliance on a periodic basis. In other factories in South and Southeast Asia, companies have contracted third parties to carry out health and safety awareness programs for workers and supervisors.

3) Wages and Benefits:

WORKPLACE CODE PROVISION: “Employers recognize that wages are essential to meeting employees’ basic needs. Employers will pay employees, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.”

The endnotes include FLA Benchmarks for this provision^{iv}.

Graph 2.5: FLA Year Two IEM Findings – Wages and Benefits



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Graph 2.5 indicates that the Wages and Benefits provision had the highest rate of reported noncompliance after Health and Safety. The endnotes^v give a complete breakdown of the 252 incidents of noncompliance with the Wages and Benefits Code provision in Year Two. Among the most commonly reported noncompliance issues were factory failure to pay workers’ legal benefits (15 percent of noncompliance with this Code provision), inadequate time recording systems (11 percent of noncompliance with this provision), and a lack of worker awareness of their Wages and Benefits.

Similar to Health and Safety findings, the high rate of noncompliance with this Code provision may in part reflect monitors’ relative strength in monitoring for noncompliance in this area. Noncompliance with this provision can often be found through a review of records, since factories are required to document hours of work, pay, and benefits. An insightful monitor can often find evidence of noncompliance through a review of time slips, payroll records, pay slips, overtime records, and other documentation. Worker interviews can also elucidate noncompliance in some circumstances, since a series of questions can highlight whether a worker understands a factories’ pay system.

Despite the high rate of noncompliance with Wages and Benefits, however, some observe that it may still be underreported. With periodic monitoring by sourcing companies and other independent groups, factory personnel have become sophisticated in concealing noncompliance related to wages. They often hide original documents and show monitors a doctored copy of their books. So, while it is not backed by verifiable evidence, it is likely that the rate of noncompliance with this and other code provisions relating to hours and wages (i.e., Hours of Work and Overtime Compensation) is higher than actually reported. The FLA aims to address this issue through its new monitoring instrument, and more advanced monitoring methodologies. Through the FLA Hours of Work in China pilot project, the FLA is also experimenting with ways to address the issues that lead management to keep double books.

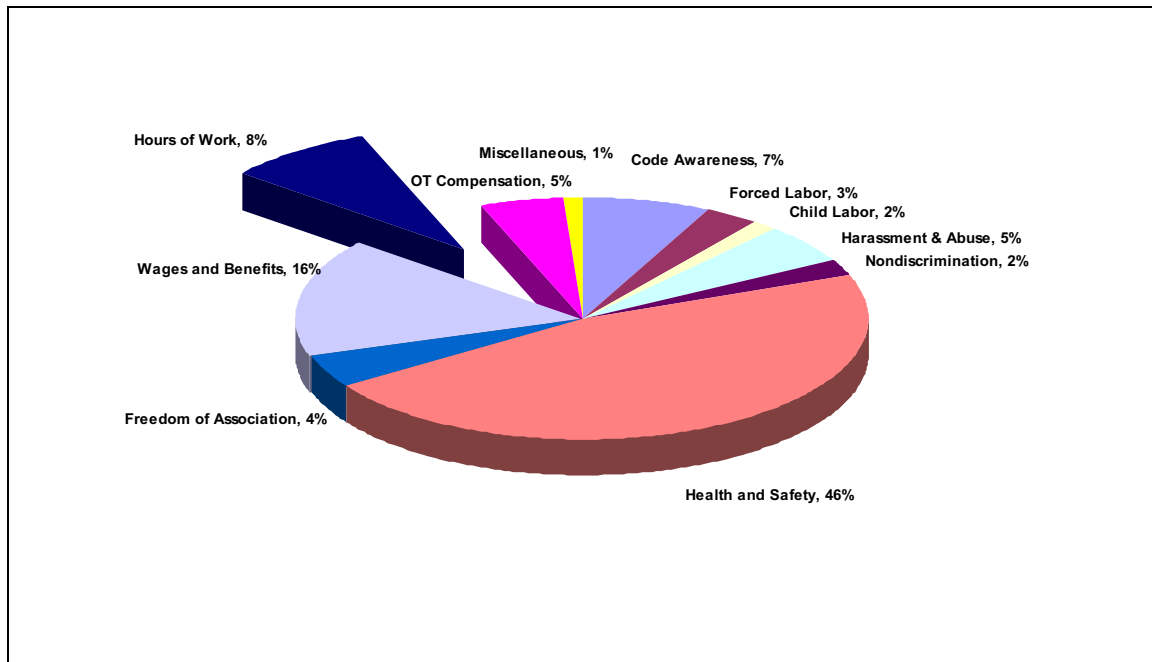
During Year Two, various FLA companies addressed the more common Wage and Benefit noncompliance findings by encouraging management to improve record-keeping, and to calculate workers' legal wages and benefits correctly. Some companies also developed plans to review factory records periodically in order to verify that workers receive adequate pay. Others introduced electronic swipe card systems and computerized record keeping software in their sourcing factories. And in a more unique case, when factory security guards who were employed by external security agencies did not receive adequate pay or benefits, one company required that the sourcing factory ensure that these employees also received minimum wages and benefits for work conducted on the factory premises.

4) Hours of Work

WORKPLACE CODE PROVISION: “Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period.”

Endnote iv contains the FLA Benchmarks for this provision.

Graph 2.6: FLA Year Two IEM Findings – Hours of Work



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Eight percent of all reported noncompliance for Year Two, approximately 130 individual incidents related to Hours of Work. Most incidents took place in Southeast Asia (46), East Asia (36), and South Asia (35). Noncompliance with maximum hours of work standards was more common in regions where there is increased demand for production (see graph in Facts and Figures), indicating that factories may not have the capacity to complete orders without increasing working hours.

The endnotes contain a breakdown of Year Two reported noncompliance issues tallied according to the Hours of Work benchmarks.^{vi}

Sixty-three percent of all noncompliance with this Code provision related to excessive overtime hours. In China, for example, findings of excessive overtime were not uncommon, even in factories where factory managers can acquire a waiver from the local labor bureau that permits them to employ workers for more than the legally-allowed overtime limits (a maximum of 36 hours of overtime per month). These waivers, which tend to be valid for six months, are often easy to obtain. In fact, based on investigations in China, the FLA believes there is a risk that waivers can be acquired through bribes or local connections with labor departments. The FLA does not consider local waivers to be valid if they do not comply with China's national standards; therefore, even if factories had obtained such permits, they were not considered to be in compliance with the Code if they went beyond national work hour restrictions.

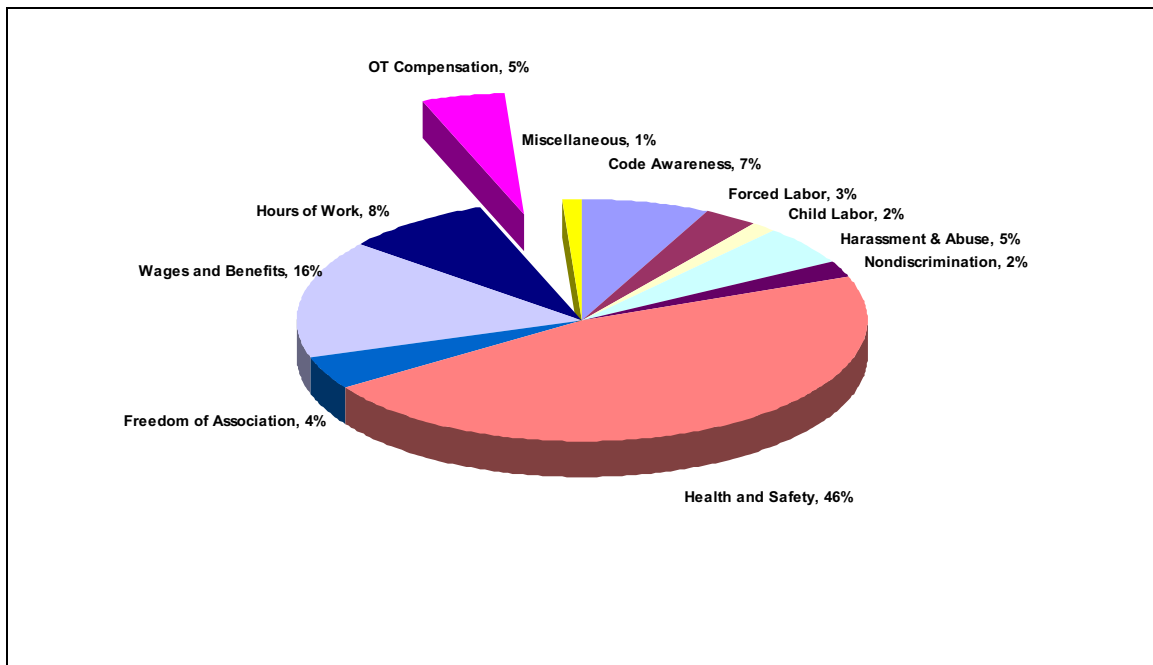
In working with companies to remediate Hours of Work noncompliance, the FLA has observed that the underlying causes of excessive overtime include: pressures on workers to achieve high production quotas set by management; inflexible and very short production deadlines; and strict and sometimes outdated domestic labor laws. Managers also remark that company production targets conflict with local labor laws. The FLA is looking more closely at the complex of issues that contribute to excessive working hours through its Hours of Work Project in China.

5) Overtime Compensation

WORKPLACE CODE PROVISION: "In addition to their compensation for regular hours of work, employees will be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws will not exist, at a rate at least equal to their regular hourly compensation rate."

Endnote iv provides FLA Benchmarks for this provision.

Title change: Graph 2.7: FLA Year Two IEM Findings – Overtime Compensation



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Overtime Compensation (5 percent of total reported noncompliance) is related to the FLA Code provisions *Wages and Benefits* and *Hours of Work*, which together comprised 30 percent of noncompliance findings in Year Two. Most noncompliance with this Code provision related to unfair compensation for overtime hours (42 percent); lack of accurate recording of overtime hours (20 percent); and inadequate overtime compensation awareness among workers (14 percent). The endnotes provide a breakdown of Year Two reported noncompliance issues tallied according to the Wages and Benefits benchmarks.^{vii}

In various instances, unfair compensation of overtime hours resulted in workers not being paid 150 percent, 200 percent, or 300 percent of minimum wages for overtime work, as is required by local law in different countries. In other cases, workers worked during one half of their lunch hour and were not compensated accordingly. Interviews demonstrated that workers faced unpleasant consequences for refusing to work overtime, and that overtime was the rule, rather than the exception for many workers.

In 20 percent of the cases, overtime compensation noncompliance was due to management's failure to provide complete records of overtime work. Monitors also observed that some

supervisors were keeping separate books to record the overtime worked by the workers, and did not want to disclose those records to monitors.

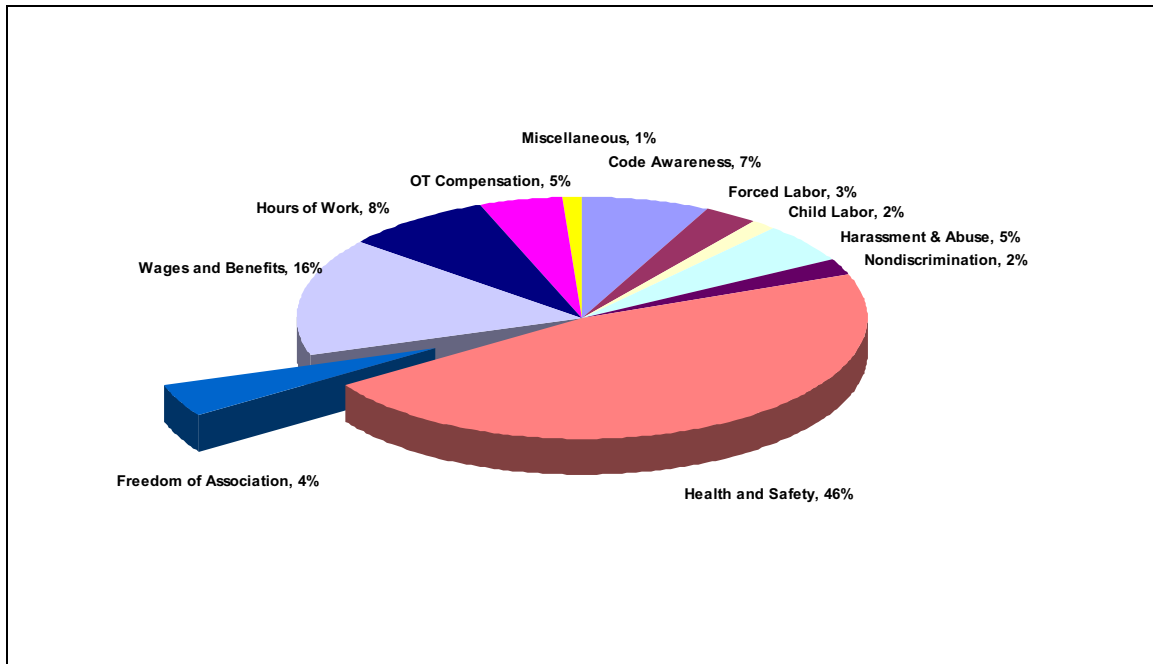
Some FLA monitors and brands have observed a general distrust for compliance staff among factory management in various countries, which has stood in the way of transparent reporting of hours, wages, and overtime compensation. With ongoing dialogue, however, some brands have reported cases of management becoming more transparent in providing access to records relating to working hours, compensation, and back wages. In cases where overtime was not being paid, some companies have found that efforts to help management develop realistic production schedules or to improve productivity have alleviated overtime, and provided the cash to pay overtime when necessary. There have also been reports of factories supplementing overtime pay with services workers request. For example, a footwear factory in Indonesia, in addition to paying overtime, provided transportation for 3 shifts so that workers would not have to walk home after night shifts. In several other factories, workers working overtime were provided breaks, snacks, or meals.

6) Freedom of Association and Collective Bargaining

WORKPLACE CODE PROVISION: “Employers will recognize and respect the right of employees to freedom of association and collective bargaining.”

Access FLA Benchmarks for this provision in the endnotes^{viii}.

Graph 2.8: FLA Year Two IEM Findings – Freedom of Association and Collective Bargaining



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Four percent of the total 1,595 IEM findings in Year Two related to Freedom of Association in spite of the fact that a high percentage of the IEMs were conducted in high-risk locations like China, Vietnam, Bangladesh, and Central America. As discussed in the featured issue of this year’s report, Freedom of Association is an essential yet challenging Code provision to enforce due in part to the complex nature of this international standard, which accords workers the right to choose to affiliate or not to affiliate with a union. Because workers are given this choice, it is often difficult to identify and document occurrences of noncompliance. These complexities also make remediation challenging, yet nonetheless necessary.

Of the seventy reported instances of Freedom of Association noncompliance, 34 percent were classified as restrictions on workers’ right to establish and join organizations of their own choosing without previous authorization. In many cases, workers’ rights were limited by local laws. For example, all factories in China were found to be in noncompliance with this Standard. FLA monitors also found cases where employment practices discriminated against union-affiliated workers, and where management interfered in union activities or tried to prevent union development. The endnotes provide a breakdown of Year Two reported noncompliance issues tallied according to the Freedom of Association benchmarks.^{ix}

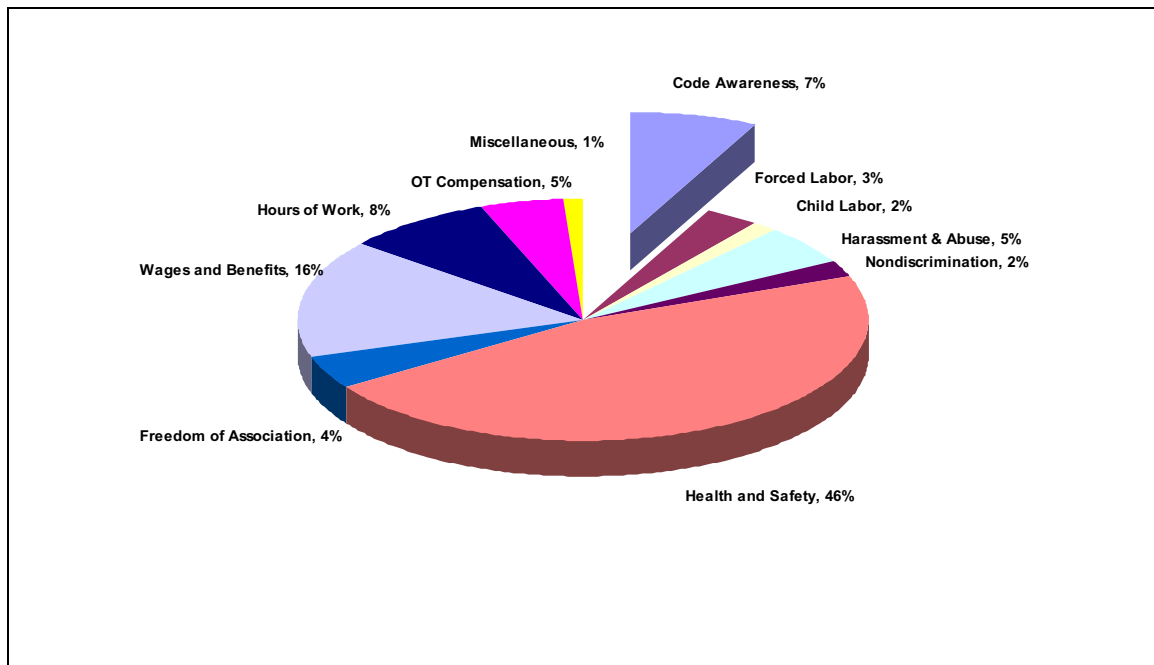
Interestingly, 40 percent of the reported Freedom of Association issues did not fall under any of the current FLA benchmarks; they qualified as "Other." These findings highlighted the need for a more sophisticated understanding of this standard among monitors, as well as a need for enhanced investigation techniques and reporting tools. In order to increase monitors' capacity to investigate and report effectively on Freedom of Association, the FLA published the *2003 FLA Monitoring Alert – Freedom of Association*. As mentioned earlier in this report, the FLA has also developed a new monitoring instrument, which will be used in Year Three monitoring visits. The instrument includes a new exercise that will help monitors map out labor-management relationships with a view to detecting freedom of association issues more effectively. The information collected through this exercise will also enable the FLA and companies to devise more effective remediation plans.

With regard to remediation of Freedom of Association noncompliance in Year Two, the FLA encouraged companies to provide education and training to workers and managers in order to increase their awareness of this standard. In several cases, companies were urged to develop hiring and firing protocols, and to develop systems for consultation and negotiation with workers. However, the FLA also underscored that companies should not engage in actions that could be construed as intervention in workers' organizational activities, since intervention in organizing represents a different kind of infringement on freedom of association. The organization has also worked to improve approaches to remediate key Freedom of Association issues through collaborative projects, most notably the Central America project and monitor trainings.

For more information about Freedom of Association and the countries where adherence to this provision is particularly challenging, see the Year Two Feature Issue: Freedom of Association section of this report.

7) Code Awareness

Graph 2.9: FLA Year Two IEM Findings – Code Awareness



** Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.*

Code Awareness was one of the leading issues uncovered by monitors in Year Two, making up 7 percent of all reported noncompliance issues. Code Awareness is unique in that it is not a Code provision itself, but rather is one of the benchmarks that monitors review during the monitoring process. Workers' awareness of Code provisions is essential for their effective implementation on a daily basis, and FLA companies are obligated to ensure workers' awareness of the Code.

Factories' fulfillment of this obligation is measured by three benchmarks: the posting of a Code of Conduct that makes the standards clear; worker and management awareness of the Code; and a mechanism in the factory for reporting noncompliance with the Code. The endnotes include a breakdown of Year Two reported noncompliance issues tallied according to Code Awareness.^x

From a regional perspective, most instances of noncompliance with this Code provision were observed in South Asia, followed by East Asia. Most of the reported Code Awareness noncompliance across all regions, 42 percent of all issues raised, dealt with the lack of a mechanism by which workers can report noncompliance issues. FLA companies are required to provide workers with a channel through which they can communicate grievances to brand representatives.

Although this is still an area for improvement, some companies have worked to meet this obligation in innovative ways. While most have installed suggestion boxes designed for discreet submission of grievances, some have also provided workers with prepaid postcards addressed to company representatives. Others have experimented with free hotline numbers, and many post the cell phone and office numbers of local human rights compliance staff in the factories. Still others have worked with local organizations to collect and address grievances.

It is worth noting here that as companies work to improve local compliance structures, some have worked to train workers and management to install or strengthen factory grievance

systems. The hope is that problems can be resolved more quickly and effectively at the factory level, and that contacting brands concerning noncompliance can become a last resort.

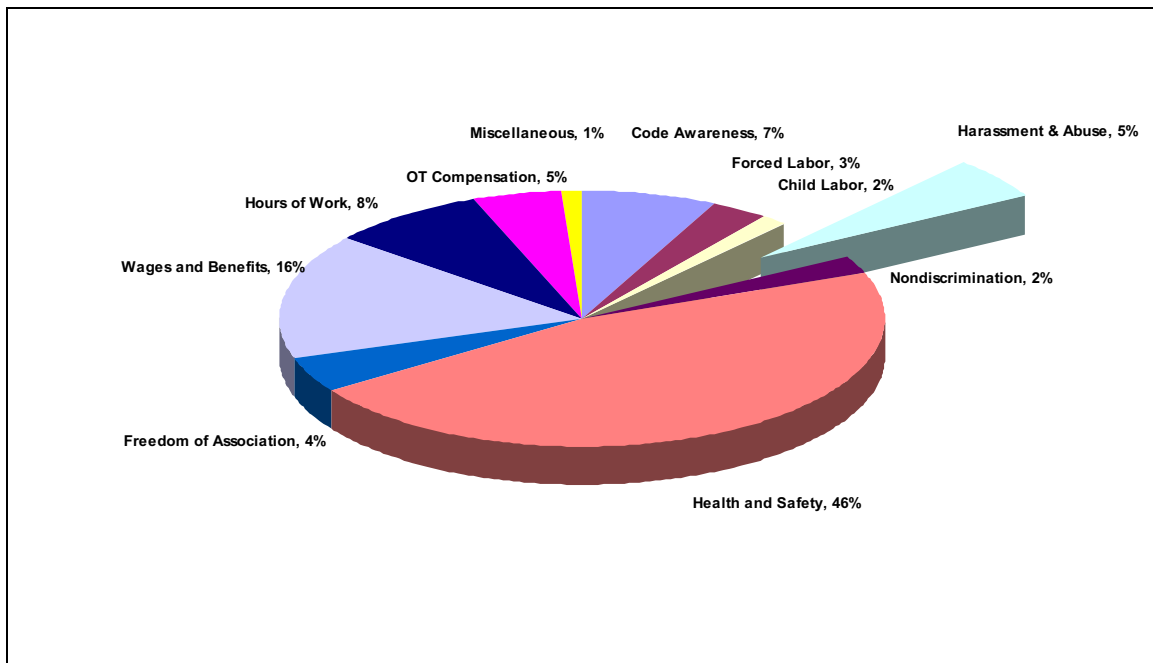
Worker and management Code Awareness was also a challenging area, making up 30 percent of all reported noncompliance issues in this section. Despite company Code postings in local languages, and requirements for management to communicate the standards periodically and verbally, Code Awareness levels among workers are low in many factories. Regular training sessions about the Code and local labor laws and the provision of worker handbooks are suggested remediation approaches for these issues. The FLA has observed several instances of such company efforts improving Code awareness. Programs focused on involving local NGOs, unions, or worker representatives in administering worker education have proven to be especially effective.

8) Harassment or Abuse

WORKPLACE CODE PROVISION: “Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.”

FLA Benchmarks for this provision are available in the endnotes.^{xi}

Graph 2.10: FLA Year Two IEM Findings – Harassment or Abuse



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Noncompliance with the Code provision on Harassment or Abuse made up 5 percent, or approximately 79 cases, of all reported noncompliance in Year Two. The endnotes provide a breakdown of Year Two reported noncompliance issues tallied according to the *Harassment or Abuse* benchmarks.^{xii}

Almost 20 percent of Harassment or Abuse cases involved verbal abuse of workers by supervisors. Interviews revealed, however, that it is likely that many more verbal abuse cases go unreported in factories because workers are often scared to report verbal abuse to managers for fear of losing their jobs. In some regions, workers do not consider supervisors yelling at them to be verbal abuse, and so do not report it.

Sixteen percent of reported noncompliance with this provision related to workers being subjected to monetary fines or penalties for arriving late at the factory, taking a day off without prior notice, or losing sewing equipment. Eleven percent related to inadequate training of the management in disciplinary practices.

Sexual harassment was reported in three factories in Year Two. This low number seems to reflect underreporting of an issue that can be difficult for workers to communicate and monitors to detect. Like Freedom of Association, the FLA is making changes to its monitoring methodology to try to address such underreporting. In these cases it was noted that factories lacked procedures and adequate training to investigate the cases internally. Therefore, in Year Two, some companies helped factories develop procedures to investigate the charges against the supervisors and were able to settle the cases in a just manner.

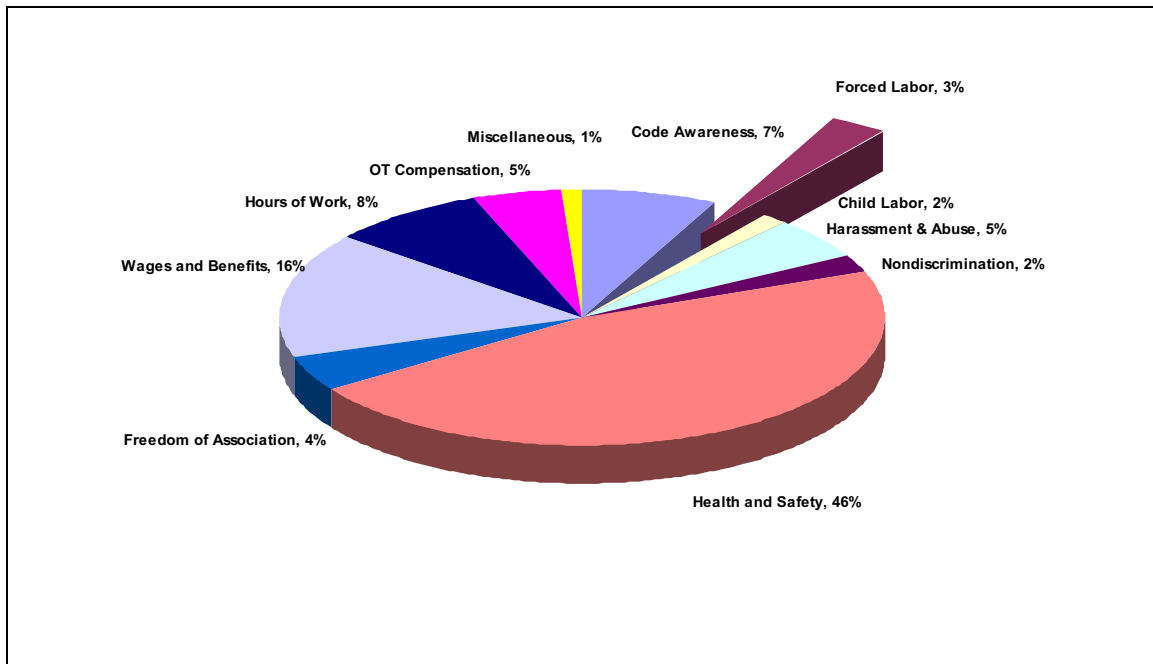
Remediation for other Harassment or Abuse cases included helping factory management to develop proper protocols and arranging trainings to improve management's respect for workers. In India, where the labor law requires a sexual harassment committee to be formed in each factory, at least one company provided training and guidance to the committee representatives with a view to preventing future noncompliance.

9) Forced Labor:

WORKPLACE CODE PROVISION: "There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise."

FLA Benchmarks for this provision are provided in the endnotes^{xiii}.

Graph 2.11: FLA Year Two IEM Findings – Forced Labor



* Please note that these findings represent the 1595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Forced Labor made up 3 percent of all reported noncompliance issues in Year Two, totaling 46 individual cases. Almost half of all reported noncompliance with this provision took place in South Asia (49percent), followed by Southeast Asia (22 percent) and East Asia (21percent). A breakdown of Year Two reported noncompliance issues tallied according to the Forced Labor benchmarks is available in the endnotes.^{xiv}

It is important to note that the FLA Benchmarks for the Forced Labor Code Provision are not limited to "forced labor" or "bonded labor." In fact, none of the 110 factories that were independently monitored in Year Two showed evidence of forced or bonded labor. Instead, all of the noncompliance findings for this provision related to personnel or recordkeeping practices that did not comply with FLA standards. Almost half (46%) of these issues related to insufficient hiring and employment records. In other cases, workers were hired as daily workers, which enabled factories to avoid providing various benefits and protections that full-time workers are entitled to by law. There were also instances of factories holding workers' identification cards or other documentation, limiting workers' freedom of movement.

Various factories were also engaged in recruitment practices that did not comply with FLA standards. According to FLA benchmarks, contracts, recruitment arrangements, or any other

mechanism may in no way allow for the confinement of workers or restrictions on their free movement. The benchmarks protect workers against some of the disciplinary tactics that are associated with recruitment arrangements, which have been known to give management the power to withhold wages already earned by workers in order to prevent them from leaving their jobs before the end of their contracts.

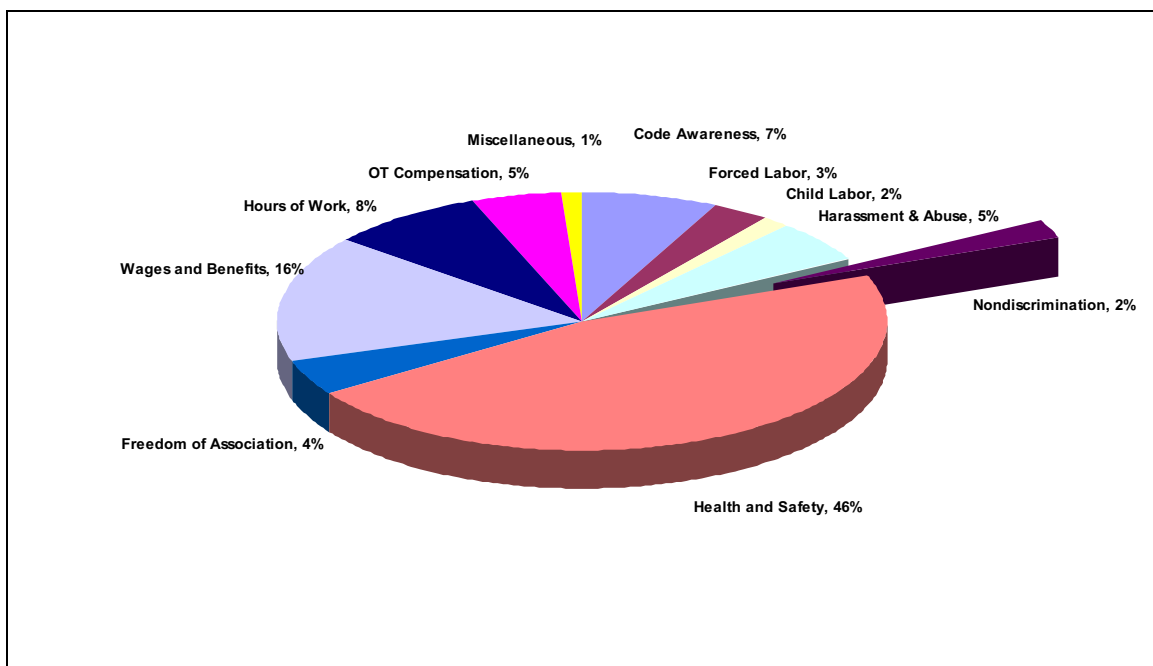
In instances where these issues arose, some companies required factories to institute improved recordkeeping practices relating to hiring and workers' status. Others required factories to obey legal limitations on day workers wherever relevant. In a case where workers' freedom of movement was restricted, a company worked to put policies in place that would ensure that workers had free access to their passports or identity cards, and that recruitment arrangements would not undermine workers' basic rights.

10) Nondiscrimination

WORKPLACE CODE PROVISION: "No person will be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin."

FLA Benchmarks for this provision are provided in the endnotes^{xv}.

Graph 2.12: FLA Year Two IEM Findings – Nondiscrimination



* Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

Two percent of the total noncompliance issues reported in Year Two related to the FLA's Nondiscrimination provision. Almost half (43 percent) of Nondiscrimination noncompliance took place in Southeast Asia. Europe, Middle East and Africa (EMEA) had relatively high noncompliance, representing 32 percent of reported Nondiscrimination noncompliance, followed by East Asia with 19 percent. The endnotes provide a breakdown of Year Two reported noncompliance issues tallied according to the Nondiscrimination benchmarks.^{xvi}

Most Nondiscrimination noncompliance related to pregnancy benchmarks, including pregnancy testing (23 percent of all reported Nondiscrimination cases), pregnancy discrimination (14 percent), pregnancy risk (9 percent), and pregnancy accommodation (3 percent). There were no reports of dismissal due to pregnancy. Further explanation of these categories can be reviewed in the FLA Benchmarks.

Some monitors reported that factories had made verbal contracts with female workers when they were hired, clarifying that the workers were not allowed to get pregnant until after a pre-designated date. This was part of an attempt on the part of factories to avoid paying maternity

leave and benefits, as is their legal responsibility in many countries. The monitoring reports also revealed many issues relating to discriminatory hiring practices. In some instances, monitors found job advertisements specifically targeting young women workers and discriminating against workers of other ages.

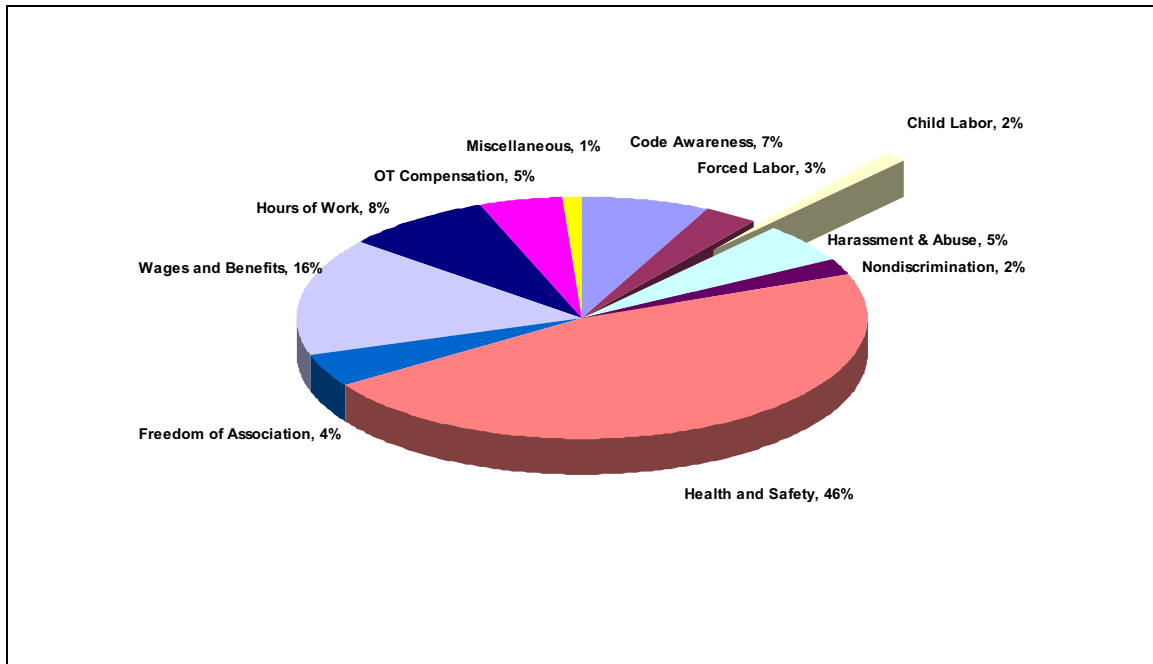
Several companies addressed discrimination issues by assisting factories in developing Nondiscrimination policies. In cases where pregnancy testing was used, several companies informed factories that this was a serious breach of the FLA Code and must stop immediately. One company also reviewed job advertisement texts to ensure that they did not contain discriminatory language, and, as a preventative measure, several companies included education about Nondiscrimination in various worker and management training programs.

11) Child Labor

WORKPLACE CODE PROVISION: “No person will be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.”

FLA Benchmarks for this provision are provided in the endnotes^{xvii}.

Graph 2.13: FLA Year Two IEM Findings – Child Labor



* Please note that these findings represent the 1595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.

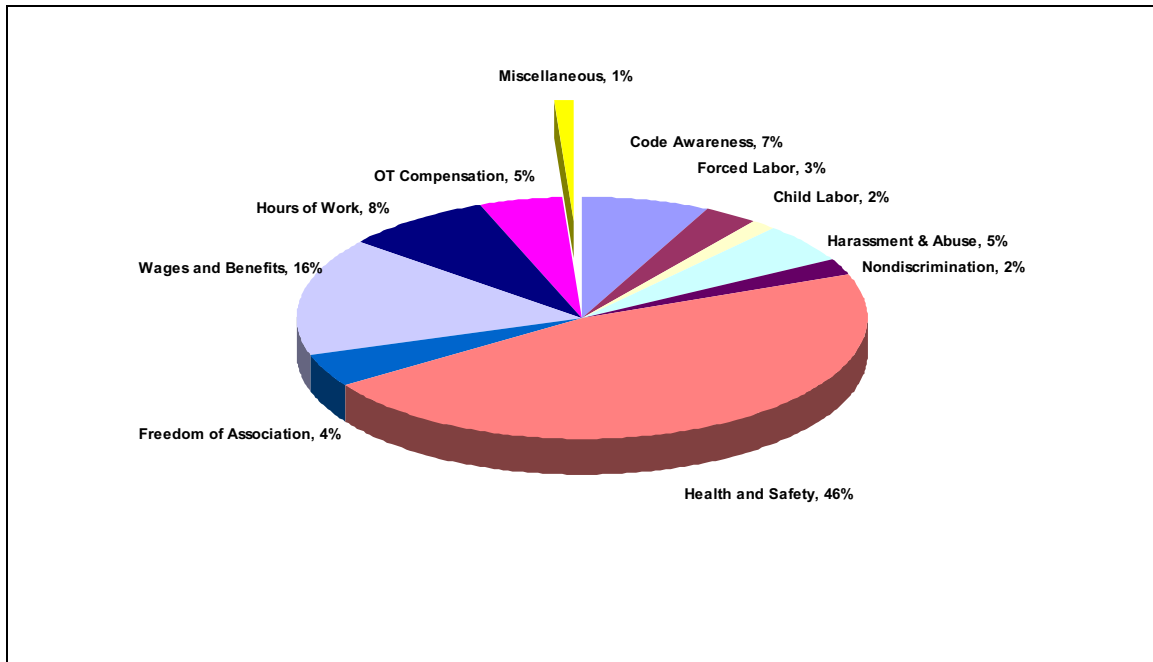
Of the 110 factories that were independently monitored in Year Two, there were no reported instances of children working in factories. The 2 percent of all noncompliance issues that related to the Child Labor Code provision totaled 26 incidents, 42 percent of which related to incomplete or fraudulent age documentation. In other cases, factories had not taken adequate measures to verify the age of workers (19 percent). Most of these cases related more to adequate record-keeping on the part of the factory than to issues directly related to Child Labor. As a result, factories were required to improve those systems. The endnotes provide a breakdown of Year Two reported noncompliance issues tallied according to the Child Labor benchmarks.^{xviii}

In six instances (19 percent), factories failed to comply with legal provisions for juvenile workers, who have reached the minimum legal working age as defined by local law, but due to their age are limited in the kind of work that they are allowed to do. Working with dangerous chemicals or using heavy or dangerous machinery are among the kinds of work that these workers are restricted from doing in many countries. In the reported instances of noncompliance, juvenile workers were engaged in restricted work, such as dying cloth or cutting. In these cases, the companies worked with factories to ensure that the legal limitations for juvenile work were understood, and that necessary arrangements were made for these workers.

The presence of child care facilities in factories also arose as an issue in two audits. In some countries, factories are required to provide child care if the production workforce exceeds a certain number. Not all laws provide specifications about the quality of the facilities, however, leaving room for substandard child care facilities. In these cases, companies required factories to provide clean and safe child care facilities.

12) Miscellaneous

Graph 2.14: FLA Year Two IEM Findings – Miscellaneous



** Please note that these findings represent the 1,595 incidences of separate noncompliance issues as found in 105 of the 110 factories subjected to IEMs in Year Two.*

Miscellaneous reporting captures those issues that were observed by FLA-accredited monitors, but are not currently included in the FLA Code or Benchmarks. Under Miscellaneous "Other," noncompliance issues included improper documentation in the factory, unsafe transportation for workers, or failure to provide worship space for workers.

A breakdown of Year Two reported miscellaneous noncompliance issues is provided in the endnotes.^{xix}

There were four instances of factories subcontracting to contractors that had not been approved by the FLA participating company operating in the factory. In those cases, factories received a strict warning from the companies and were told to stop subcontracting to unapproved facilities immediately. Many factories used subcontractors for processes like embroidery, washing, stain removal etc., but in most cases, these subcontractors were approved by the company after the existing labor conditions at the subcontracted factory had been investigated. There were no reported incidents of subcontracting to homeworkers in any of the 110 FLA monitored facilities.

ENDNOTES – Part 3 of FLA’s Year Two Public Report

i HARASSMENT OR ABUSE

WORKPLACE CODE PROVISION: Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.

Benchmarks

- Employers will utilize progressive discipline, e.g., escalating discipline using steps such as verbal warning, written warning, suspension, termination. Any exceptions to this rule, e.g., immediate termination for theft or assault, shall be in writing and clearly communicated to workers.
- Employers will not use physical discipline, including slaps, pushes or other forms of physical contact (or threats of physical discipline).
- Employers shall not offer preferential work assignments or other preferential treatment of any kind in actual or implied exchange for a sexual relationship, nor subject employees to prejudicial treatment of any kind in retaliation for refused sexual advances.
- Employers will utilize consistent written disciplinary practices that are applied fairly among all workers.
- Employers will provide training to managers and supervisors in appropriate disciplinary practices.
- Management will discipline (could include combinations of counseling, warnings, demotions, and termination) anyone (including managers or fellow workers) who engages in any physical, sexual, psychological or verbal harassment or abuse.
- Employers will maintain written records of disciplinary actions taken.
- Employers will prohibit screaming, threatening, or demeaning verbal language.
- Security practices will be gender-appropriate and non-intrusive.
- Access to food, water, toilets, medical care or health clinics or other basic necessities will not be used as either reward or punishment.
- Employers will not unreasonably restrain freedom of movement of workers, including movement in canteen, during breaks, using toilets, accessing water, or to access necessary medical attention.
- Employers will not use monetary fines and penalties for poor performance.

ii HEALTH AND SAFETY

A. WORKPLACE CODE PROVISION: Employers will provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

B. Benchmarks

- Employer will comply with applicable health and safety laws and regulations. In any case where laws and Code of conduct are contradictory, the higher standards will apply. The factory will possess all legally required permits.
- All documents required to be available to workers and management by applicable laws (such as policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language spoken by majority of the workers if different from the local language.
- All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, unblocked aisles/exits, employee education, evacuation procedures, etc.) shall be complied with and workers shall be trained in proper safety, first aid, and evacuation procedures.
- All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be in place, maintained as prescribed and accessible to the employees.
- Workers shall wear appropriate protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to hazardous elements including medical waste.
- All chemicals and hazardous substances should be properly labeled and stored in accordance with applicable laws. Workers should receive training, appropriate to their job responsibilities, in the safe use of chemicals and other hazardous substances.
- To prevent unsafe exposure to hazardous chemicals, appropriate accommodations shall be made for pregnant women and minors as required by applicable laws in a manner that does not unreasonably disadvantage employees.
- All ventilation, plumbing, electrical, and lighting services shall be provided and maintained to conform to applicable laws and prevent hazardous conditions to employees in the facility.
- All safety and accident reports shall be maintained for at least one year, or longer if required by law.
- All production machinery and equipment shall be maintained, properly guarded, and operated in a safe manner.
- All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with applicable laws.
- All food preparation shall be prepared, stored, and served in a sanitary manner in accordance with applicable laws. Safe drinking water should be available in each building.
- All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting etc.). Emergency evacuation drills should also be conducted at least annually.
- Workers should be involved in planning for safety, including through worker safety committees.

iii

Table 2: Health and Safety Noncompliance in Year Two – By Benchmark

Health and Safety Benchmarks	Number of Noncompliance Issues	Percent of Total
Fire Safety Health and Safety legal compliance	60	8%
Document Maintenance/ Accessibility	40	5%
Postings and Evacuation Procedure	153	21%
Safety Equipment	89	12%
PPE	79	11%
Chemical Management	54	7%
Chemical Management for Pregnant women and juvenile workers	4	1%
Ventilation/ Electrical/ facility maintenance	69	9%
Accident Record Maintenance	17	2%
Machinery Maintenance	42	6%
Sanitation in Facilities	56	8%
Sanitation in Dining Area	17	2%
Sanitation in Dormitories	8	1%
Worker Participation	18	2%
Health & Safety Other	35	5%
Total	741	100%

iv

WAGES AND BENEFITS, HOURS OF WORK AND OVERTIME COMPENSATION

A. WORKPLACE CODE PROVISIONS:

WAGES AND BENEFITS: Employers recognize that wages are essential to meeting employees’ basic needs. Employers will pay employees, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.

HOURS OF WORK: Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period.

OVERTIME COMPENSATION: In addition to their compensation for regular hours of work, employees will be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws will not exist, at a rate at least equal to their regular hourly compensation rate.

B. Benchmarks

Employers will pay workers the legal minimum wage or the prevailing industry wage, whichever is higher.

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- Where training wages are legally allowed, no worker will be paid a training wage for more than three months cumulatively.
 - Employers will communicate orally and in writing to all employees in the language of the worker the wages, incentive systems, benefits and bonuses to which all workers are entitled in that company and under the applicable law.
 - All notices that are legally required to be posted in the factory work areas will be posted. All legally required documents, such as copies of legal Code or law, will be kept at the factory and available for inspection.
 - In general, workers will have access to understandable information about their wages and benefits, and will not express dissatisfaction with their ability to get information.
 - All workers have a right to use or not to use employer provided services, such as housing or meals.
 - Deductions for services to employees will not exceed the cost of the service to the employer. If questioned, employers will demonstrate the reasonableness of these charges.
 - Accurate and reliable payroll reporting, including pay stubs will be provided.
 - Employers will provide workers a pay statement each pay period, which will show earned wages, regular and overtime pay, bonuses and all deductions.
 - Time worked by all employees, regardless of compensation system, will be documented by time cards or other accurate and reliable recording systems such as electronic swipe cards.
 - All compensation records will be maintained accurately and should be acknowledged by the employee as accurate.
 - Employers will provide all legally mandated benefits to all eligible workers.
 - Legally mandated bonuses (e.g. 13th month payments and severance payments will be paid in full and in a timely manner.
 - Legally mandated benefits will be provided or paid in full within legally defined time periods.
 - All legally mandated deductions for taxes, social insurance, or other purposes will be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer will not hold any of these funds over from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits will be made before the next pay period in all cases.
 - All voluntary deductions (savings clubs, loan payments, etc.) will be credited to proper accounts and funds will not be held illegally or inappropriately by employers.
 - Workers will be paid for holidays and leave as required by law.
 - All hourly wages, piecework, bonuses, and other incentives will be calculated and recorded accurately.
 - All compensation shall be paid in a timely manner.
 - Workers paid on the basis of incentive quotas will be paid not less than the minimum or

prevailing wage, whichever is higher.

- Regardless of any production quotas, incentives will not be reduced or unpaid if the result will be wages below the minimum wage.
- Employers will not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason.
- All legally required payroll documents, journals and reports will be available complete, accurate and up-to date. (In the United States terms this would include W-4s, I-9s, green cards, 941s and supporting material)
- All employees will be credited with all time worked for an employer for purposes of calculating length of service to determine the benefits to which workers are entitled.
- Under extraordinary business circumstances, employers will make extensive efforts to secure voluntary overtime work prior to mandating involuntary overtime.
- Positive incentives will be utilized, and known by the workers.
- Negative incentives or punitive actions will not used to induce overtime in excess of Code standards.
- Employer personnel practices will demonstrate an effort to maintain a level of staffing that is reasonable in view of predictable or continuing fluctuations in business demand.
- Except in extraordinary business circumstances, employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime; and (ii) be entitled to at least one day off in every seven day period. An extraordinary business circumstance is a temporary period of extra work that could not have been anticipated or alleviated by other reasonable efforts.
- The employer will demonstrate a commitment to reduce mandated overtime and to enact a voluntary overtime system to meet unforeseen situations.
- If the employer repeatedly requires overtime in order to respond to the same situation, the employer will explain why it will not have sufficient staff on hand to avoid the necessity of overtime.
- Employers shall be able to provide explanation for all periods when the extraordinary business circumstances exception has been used. Employers shall take reasonable steps to inform workers about the nature and expected duration of the circumstances.
- The factory will comply with all applicable laws governing work hours, including those regulating or limiting the nature and volume of work performed by women or workers under the age of 18.
- Employers will maintain necessary records identifying all workers entitled to legal protections for women and workers under 18.
- Employers will ensure reasonable meal and rest breaks, which, at a minimum, must comply with local laws.

- Employees will be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work.
- The factory shall comply with applicable law for premium rates for overtime compensation.
- Workers shall be informed about overtime compensation rates, by oral and printed means
- Where workers are paid on a piece rate, the payment for overtime work performed shall result in no less payment than the premium pay required by law.
- Overtime hours worked in excess of Code standard will be voluntary.

v

Table 3: Wages and Benefits Noncompliance in Year Two – By Benchmark

Wages and Benefits Benchmarks	Number of Noncompliance Issues	Percent of Total
Minimum Wage	19	8%
Training Wage	2	1%
Wage Benefits Awareness	31	12%
Wage and Benefits Posting	9	4%
Wage and Benefits Information Access	10	4%
Voluntary Use of Benefits	1	0%
Deduction for Services	2	1%
Payroll Reporting	6	2%
Pay statement	14	6%
Time-recording system	27	11%
Record Maintenance	15	6%
Legal benefits	37	15%
Payment of wages	4	2%
Payment of Legal Benefits	7	3%
Timely Payment of Benefits	5	2%
Illegal Holding of Funds	2	1%
Legal Compliance for holiday/leave	9	4%
Accurate recording of wage compensation	9	4%
Timely Payment	4	2%
Minimum wage/ Quotas	2	1%
Minimum wage/ Incentives	1	0%
False Payroll Records	11	4%
Record Maintenance	13	5%
Accurate benefit compensation	7	3%
Wages and Benefits Other	5	2%
Total	252	100%

Table 4: Hours of Work Noncompliance in Year Two – By Benchmark

Hours of Work Benchmarks	Number of Noncompliance Issues	Percent of Total
Forced overtime	12	9%
Positive Incentives	1	1%
Negative Incentives	3	2%
Reasonable Maintaining of Staff	1	1%
Overtime Limitations	82	63%
Reduce Mandated OT	8	6%
Explanation of continued required OT	5	4%
Overtime Explanation	7	5%
Legal compliance with protected workers	5	4%
Record Maintenance (Women, <18yrs)	3	2%
Hours of Work Other	4	3%
Total	131	100%

Table 5: Overtime Compensation Noncompliance in Year Two – By Benchmark

Overtime Benchmarks	Number of Noncompliance Issues	Percent of Total
OT Breaks	3	4%
Accurate recording of OT hours worked	16	20%
OT Compensation	33	42%
OT Compensation Awareness	11	14%
OT Compensation for Piece	5	6%
Voluntary OT	8	10%
OT Other	3	4%
Total	79	100%

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

A. WORKPLACE CODE PROVISION: Employers will recognize and respect the right of employees to freedom of association and collective bargaining.

B. Benchmarks

- Workers will have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment.

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- The employer will not interfere, to the detriment of worker's organizations, with government registration requirements regarding the formation of workers' organizations.
 - The employer will not dismiss, discipline, or otherwise coerce or threaten workers seeking to form, join or participate in workers' organizations.
 - The employer will not interfere with workers' exercise of the right to freedom of association through intimidation, including illegal or unreasonable searches.
 - The employer will not use force, or the presence of police or military, to intimidate workers, or to prevent peaceful organizing or assembly.
 - The employer will not interfere with the right to freedom of association by controlling workers' organizations or favoring one workers' organization over another.
 - The employer will not discriminate against workers who seek to exercise their right to organize and bargain collectively.
 - In cases where a single union represents workers, the employer will not interfere in any way in workers' ability to form other organizations that represent workers.
 - Employers will comply with all national and local laws and regulations concerning collective bargaining and free association. Where conflicts are known to exist, employers will use the standard that provides the greatest protection for workers.
 - The employer will not shift production or close a factory for the direct purpose of retaliating against workers who have formed or are attempting to form a union.
 - Workers' organizations have the right to elect their representatives and conduct their activities without employer interference.
 - The employer will not dismiss, discipline, or otherwise coerce or threaten workers because of their exercise of the right to freedom of association. When union officers are dismissed, demoted or otherwise suffer a loss of rights at work, a monitor should look with special attention at the possibility of anti-union discrimination.
 - Employers will negotiate in good faith with any union that has been recognized, by law or agreement between the employer and that union, as a bargaining agent for some or all of its employees.
 - Employers and employees will honor in good faith, for the term of the agreement. the terms of any collective bargaining agreement they sign. Employees shall be able to raise issues regarding CBA compliance by the employer without retaliation
 - In any case where the industrial relations system specifies certain unions as the exclusive bargaining agent, employers will not be required to engage in collective bargaining with other worker groups or organizations on matters covered by the collective agreement.
 - Trade unions not recognized as bargaining agent of some or all of the workers in a facility should have the means for defending the occupational interests of their members, including making representations on their behalf and representing them in cases of individual grievances, within limits established by applicable law. Workers' representatives should have the facilities necessary for the proper exercise of their functions, including access to workplaces
 - Employers will not use blacklists of any kind.

- Employers shall not offer or use severance pay (or “indemnization” in Latin America) as a means of restricting union formation or union operations.

ix

Table 6: Freedom of Association Noncompliance in Year Two – By Benchmark

Freedom of Association Benchmarks	Number of Noncompliance Issues	Percent of Total
Right to Freely Associate	24	34%
Employer Interference in registration	2	3%
Unfair dismissal	1	1%
Employer interference/ intimidation	0	0%
Employer interference/ external forces	0	0%
Employer control/ favoritism	1	1%
Discrimination	0	0%
Employer interference/ formation of alternative organizations	0	0%
Compliance to local collective bargaining laws	2	3%
Retaliation against Union Formation	0	0%
Employer Interference/Elections	6	9%
Union Harassment	0	0%
Union Negotiation	0	0%
Victimization	3	4%
Union as the Bargaining Agent	0	0%
Access to Unions	3	4%
Blacklisting	0	0%
Severance	0	0%
Freedom of Assoc. & Collective Bargain. Other	28	40%
Total	70	100%

x

Table 7: Code Awareness Noncompliance in Year Two –Principals of Monitoring - Obligation of Companies

Code Awareness Benchmarks	Number of Noncompliance Issues	Percent of Total
Code Posting & Establish Clear Standards	26	22%
Worker / Management Code Awareness	35	30%
Non-Compliance Reporting Mechanism	49	42%
Code Awareness Other	6	5%
Total	116	100%

WORKPLACE CODE PROVISION: Every employee will be treated with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse.

A. Benchmarks

- Employers will utilize progressive discipline, e.g., escalating discipline using steps such as verbal warning, written warning, suspension, termination. Any exceptions to this rule, e.g., immediate termination for theft or assault, shall be in writing and clearly communicated to workers.
- Employers will not use physical discipline, including slaps, pushes or other forms of physical contact (or threats of physical discipline).
- Employers shall not offer preferential work assignments or other preferential treatment of any kind in actual or implied exchange for a sexual relationship, nor subject employees to prejudicial treatment of any kind in retaliation for refused sexual advances.
- Employers will utilize consistent written disciplinary practices that are applied fairly among all workers.
- Employers will provide training to managers and supervisors in appropriate disciplinary practices.
- Management will discipline (could include combinations of counseling, warnings, demotions, and termination) anyone (including managers or fellow workers) who engages in any physical, sexual, psychological or verbal harassment or abuse.
- Employers will maintain written records of disciplinary actions taken.
- Employers will prohibit screaming, threatening, or demeaning verbal language.
- Security practices will be gender-appropriate and non-intrusive.
- Access to food, water, toilets, medical care or health clinics or other basic necessities will not be used as either reward or punishment.
- Employers will not unreasonably restrain freedom of movement of workers, including movement in canteen, during breaks, using toilets, accessing water, or to access necessary medical attention.
- Employers will not use monetary fines and penalties for poor performance.

Table 10: Harassment or Abuse Noncompliance in Year Two – By Benchmark

Harassment or Abuse Benchmarks	Number of Noncompliance Issues	Percent of Total
Progressive Discipline	6	7%
Physical Abuse	1	1%
Sexual Harassment	3	4%
Disciplinary Practices	4	5%
Training of Management in Disciplinary Practices	9	11%
Disciplinary Action Punishment of Abusive Supervisors/ Manager	5	6%
Record Maintenance	3	4%
Verbal abuse	16	19%
Gender Sensitive Security	4	5%
Access to Facilities	7	8%
Freedom of Movement	4	5%
Monetary Fines and Penalties	13	16%
Harassment or Abuse Other	8	10%
Total	83	100%

xiii **FORCED LABOR**

A. WORKPLACE CODE PROVISION: There will not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

B. Benchmarks

- Employers will not use prison labor.
- Employers will not bind workers to employment as a condition of fulfilling terms of a debt to a third party or to the employer. Advances will not exceed three months pay or legal limits, whichever is less.
- Workers will be compensated for their work directly through the provision of cash or its equivalent. -In-kind compensation is permissible, if local law permits, so long as legal limits are complied with and receipt of in-kind compensation is voluntary.
- Workers will not be engaged to work in a factory by a family member, associate or friend so that the family member, friend or associate receives continuing remuneration, consideration, or other return from the employer. (This will not refer to normal references, referral bonuses or standard employment recruitment practices.)
- Employers will maintain sufficient hiring and employment records to demonstrate and verify compliance with this Code provision.
- If factory entrances are locked or guarded to prevent non-employee access to the premises for security reasons, employees will have free egress at all times.
- Workers will not be required to live in employer-owned or controlled residences.

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- The freedom of movement of workers who live in employer controlled residences will not be unreasonably restricted.
 - All workers will have the right to enter into and to terminate their employment freely.
 - Employment terms shall be those to which the worker has voluntarily agreed.
 - Employers are prohibited from practices that restrict a worker's ability to terminate his or her employment or freedom of movement, including physical or mental coercion, deposits, unreasonable financial penalties or recruitment fees, and access to and renewal of identity papers and/or work permits or other legal identification documents.
 - Workers will retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers will not retain them to restrict workers' access to their personal identification documents, or to ensure that workers will remain in employment in the factory. Employers may obtain copies of original documents for record-keeping purposes.
 - Employers will provide, at employee request, secure storage for employee documents. Such storage will be freely accessible to workers.
 - There can be no employment terms (including contracts, recruitment arrangements, or any other instruments) which specify that employees can be confined or be subjected to restrictions on freedom of movement; allow employers to hold wages already earned; provide for penalties resulting in paying back wages already earned; or, in any way punish workers for terminating employment. (It is acceptable to provide bonuses to workers who stay for a term of contract and meet reasonable conditions, such as regular attendance, punctuality, good quality, etc.)
 - Deductions for repayment of any recruitment fees will not be made without the consent of the worker.

Table 8: Forced Labor Noncompliance in Year Two – By Benchmark

Forced Labor Benchmarks	Number of Noncompliance Issues	Percent of Total
Forced Labor	0	0%
Indebtedness	1	2%
In-kind Compensation	0	0%
Debt / Bondage labor	0	0%
Employment Records	21	46%
Freedom of Movement	3	7%
Employer Controlled Residence	2	4%
Freedom of Movement	1	2%
Freedom In Employment	3	7%
Employment terms	2	4%
Freedom of Movement	1	2%
Confiscated Original Documents	2	4%
Accessible Records/ Documents	3	7%
Recruitment Contracts	6	13%
Recruitment Fees	1	2%
Forced Labor Other	0	0%
Total	46	100%

NON-DISCRIMINATION

A. WORKPLACE CODE PROVISION: No person will be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

B. Benchmarks

- Employment decisions will be made solely on the basis of education, training, demonstrated skills or abilities. All employment decisions will be subject to this provision. They include: hiring, job assignment, wages, bonuses, allowances, and other forms of compensation, promotion, discipline, assignment of work, termination of employment, provision of retirement.
- There shall be no differences in compensation and benefits attributable to gender.
- Employers will not prohibit the employment of married women.
- Employers will not use pregnancy tests or the use of contraception as a condition of hiring or of continued employment. Employers will not require pregnancy testing of female employees, except as required by national law.
- Information arising from pregnancy testing undertaken voluntarily will not be used as a factor in involuntarily reassigning, firing or making any other employment decision that disadvantages a pregnant woman.

- Reasonable accommodation will be made in the event of pregnancy, in a manner that will not unreasonably disadvantage the pregnant woman.
- Employers will not, on the basis of a woman's pregnancy, make decisions that result in dismissal, threat to dismiss, loss of seniority, or deduction of wages.
- Employers will ensure that pregnant women are not engaged in work that creates substantial risk to the health of the pregnant woman.
- Employers will ensure that women are not engaged in work that creates substantial risk to their reproductive health.

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Table 11: Nondiscrimination Noncompliance in Year Two – By Benchmark

Non Discrimination Benchmarks	Number of Noncompliance Issues	Percent of Total
Hiring Discrimination Practices	15	43%
Sex discrimination	0	0%
Marital Discrimination	0	0%
Pregnancy Testing	8	23%
Pregnancy Discrimination	5	14%
Pregnancy Accommodation	1	3%
Pregnancy Dismissal	0	0%
Pregnancy Risk	3	9%
Reproductive Health	0	0%
Non discrimination Other	3	9%
Total	35	100%

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CHILD LABOR

A. WORKPLACE CODE PROVISION: No person will be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

B. Benchmarks

- If the law requires government permits or permission from parents, as a condition of employment, the employers will keep documentation on-site for inspection at all times.
- Employers will maintain proof of age documentation for all workers, such as a birth certificate, which verifies date of birth.
- In those cases where proof of age documentation is not readily available, employers will take precautions to ensure that all workers are at least the minimum working age, including medical or religious records, or other means considered reliable in the local context.
- Apprentices or vocational students will be at least the minimum working age.
- Employers will comply with all regulations and requirements of apprentice or vocational education programs, and will be able to document to monitor that these are legally

recognized programs. Informal arrangements, which result in students leaving school prior to attaining the compulsory age for schooling, are not acceptable.

- Childcare facilities will not physically overlap with production areas, and children will not have access to production areas.
- Children under the local minimum working age will not be allowed in the factory work area at any time, unless they are part of a guided school group tour or other such unusual event. Children must not visit parents in the factory production areas.
- Employers will comply with applicable laws that apply to young workers, i.e., those between the minimum working age and the age of 18, including regulations relating to hiring, working conditions, types of work, hours of work, proof of age documentation, and overtime.
- Employers will have a system for identifying work stations and operations that are inappropriate for young workers according to applicable laws.
- Employers will ensure that, all workers engaged in operating or working close to hazardous equipment, working at dangerous heights or lifting heavy loads, or exposed to hazardous substances, are above the legal age for such work.

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Table 9: Child Labor Noncompliance in Year Two – By Benchmark

Child Labor Benchmarks	Number of Noncompliance Issues	Percent of Total
Parent Consent Documentation	0	0%
Age Documentation	11	42%
Age Verification	5	19%
Legal working Age (Vocational)	0	0%
Legal Compliance (Apprenticeships)	0	0%
Childcare Facilities	2	8%
Children on premises	0	0%
Legal Compliance for Juvenile workers	5	19%
Juvenile worker Identification System	1	4%
Lack of protection of under age workers	2	8%
Child Labor Other	0	0%
Total	26	100%

Table 12: Miscellaneous Noncompliance in Year Two *

Miscellaneous	Number of Noncompliance Issues	Percent of Total
Illegal subcontracting	4	25%
Possible homework	0	0%
Miscellaneous Other	12	75%
Total	16	100%

** Miscellaneous are the non compliances that do not fall under any of the FLA Benchmarks or the country law are cited*