



**WORKER RIGHTS
CONSORTIUM**



WORKER RIGHTS CONSORTIUM ASSESSMENT

DELTA APPAREL HONDURAS, S.A. FINDINGS, RECOMMENDATIONS, AND STATUS

June 19, 2018

Table of Contents

I. Introduction	1
II. Methodology	3
III. Findings, Recommendations, and Company Response	4
A. Wages and Hours of Work	4
1. Off-the-clock Work	4
2. Failure to Pay Meal Break.	7
B. Statutory Benefits	9
1. Failure to Fully Compensate Workers for Authorized Visits to the Doctor	9
2. Failure to Provide Contractually Required Leave	12
3. Failure to Provide Full Compensation for Worker Transportation	14
C. Health Care: Inadequate Staffing of the Factory Clinic	16
D. Harassment and Abuse	19
E. Gender Discrimination	24
1. Accommodations for Pregnant Workers	24
2. Accommodations for Breastfeeding Workers	27
3. Legally-Required Onsite Childcare	28
F. Freedom of Association	29
G. Occupational Health and Safety	33
1. Excessive Heat Levels.	33
2. Poor Air Quality	35
3. Noise Levels	38
4. Fire Safety	39
5. Unhygienic, Poorly Maintained Restrooms	41
6. Ergonomics	44
7. Lockers	47
8. Personal Protective Equipment	49
9. Failure to Maintain a Properly Functioning Health and Safety Committee	50
IV. Licensee Response	52

I. Introduction

This report details the findings and recommendations of the Worker Rights Consortium (WRC) concerning labor practices at Delta Apparel Honduras, S.A. (DAH), an apparel manufacturing facility located in the Zip Buena Vista industrial park in Villanueva, Cortes, Honduras.

DAH is owned by Delta Apparel Incorporated, located in Greenville, South Carolina. At the time that the WRC initiated its investigation, DAH was disclosed as a supplier of university licensed apparel by Majestic (VF Imagewear), J America (Vetta Brands), The Game and American Threads (MV Sport), New Agenda, Image Source—and MJ Soffe, which is owned by the factory's parent company, Delta Apparel. Additionally, at the time of the WRC's visit to the factory, it was producing non-collegiate garments for Harley Davidson, Wal-Mart, and for the VF Corporation brand JanSport.

The WRC initiated its assessment of labor conditions at DAH after receiving a complaint from workers at the factory. In response to the complaint, which alleged violations in the areas of wages and hours, verbal harassment, occupational health and safety, and freedom of association, the WRC conducted offsite interviews with DAH employees concerning working conditions at the factory and conducted an onsite inspection at the DAH facility. This included a visual inspection of factory conditions and interviews with managers, personnel at the factory clinic, and additional workers. The WRC's assessment also included a review of pertinent documents and Honduran labor laws and regulations relevant to the conditions found at DAH.

DAH employs approximately 1,200 workers; they are divided into eight production modules, with 21 work-teams per module. The factory produces both basic long sleeve and short sleeve t-shirts. DAH workers have formed a union affiliated to the Federación Independiente de Trabajadores de Honduras (FITH), a Honduran labor federation. The factory-level union, Sindicato de Trabajadores de Delta Apparel (SITRADAHSA), has negotiated three consecutive collective bargaining agreements with DAH, the most recent of which was signed on November 26, 2015, for a term of three years.

This report details violations of Honduran law and, by extension, university codes of conduct,¹ identified by the WRC at DAH. The WRC found DAH to be noncompliant with respect to Honduran labor law in the following areas: wages and hours of work, legally mandated benefits, health care, harassment and abuse, gender discrimination, freedom of association, and occupational health and safety.

Subsequent to its investigation, the WRC shared the findings and recommendations outlined in this report with the factory's parent company, Delta Apparel Incorporated (Delta), which, as noted above, also owns the licensee MJ Soffe. Delta responded to each of the WRC's findings, stating its position with regard to the violations identified.

¹ Collegiate Licensing Company, Special Agreement Regarding Workplace Codes of Conduct, II(A), "Licensee must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles."

While Delta agreed to remedy a limited number of the violations outlined in the WRC's report, including factory temperature, fire safety, and factory restroom facilities, it failed to commit to adequate remediation regarding many of the violations documented by the WRC. DAH offered only partial remediation concerning its failure to compensate workers for authorized visits to the doctor, failure to provide required family leave, inadequate staffing of the factory clinic, harassment and abuse, violations of freedom of association, poor air quality, excessive noise levels, poor ergonomics, and inadequate personal protective equipment. For some of these issues, the company agreed to discuss the issue with worker representatives, but was unwilling to commit to specific remediation steps.

For still other violations documented by the WRC, Delta refused to undertake any adequate remedy. These include:

Off-the-clock work. The WRC found that workers were working off the clock, performing hours of work for which they were not paid. DAH agreed to take steps to limit off-the-clock work going forward, but was not willing to remedy the violation fully by providing workers with back pay for the off-the-clock work they had previously performed.

Failure to pay meal break. The WRC advised the company of its obligation to comply with a Ministry of Labor ruling, issued in 2013, that the company had violated Honduran law by failing to pay workers for the time of their daily meal break; the ruling directed DAH to compensate the workers for unpaid wages for a specific time period.

Failure to provide full compensation for worker transportation. The WRC found that the company does not provide full compensation to workers for transportation to and from the workplace, as required by law, despite a 2013 Ministry of Labor ruling affirming this obligation.

Accommodations for pregnant workers. The WRC found that DAH does not consistently provide pregnant workers with "light duty" assignments, as required by Honduran law.

Childcare. The law in Honduras requires the provision of childcare to employees at a workplace the size of DAH. The factory currently provides no such service to its workers.

After it became clear that Delta was unwilling to commit to full remediation, the WRC contacted the other licensees sourcing from the plant, as well as another buyer, the VF Corporation. As described below, however, more than six months after the WRC contacted these licensees, they have failed to take meaningful action to compel Delta to commit to full remediation.

By failing to prevent and promptly remedy breaches of labor law, the licensees sourcing from the plant have violated their obligations to universities under the labor rights provisions of their licensing agreements. Until the violations are corrected, these licensees will remain out of compliance.

We note that several of the licensees have sought to justify their inaction, in part, on the grounds that the Fair Labor Association (FLA) began an investigation of the case several months after the WRC completed its inquiry. The FLA investigation was a product of outreach by these licensees

to the FLA, which in turn encouraged the union to file a formal third party complaint. The FLA investigation is ongoing. While licensees are free to solicit the involvement of the FLA (or any other organization) in a given case, the fact of such involvement does not, in itself, justify licensees' failure to take timely action to remedy violations of university standards that have already been documented.

The WRC continues to urge Delta and the licensees sourcing from the plant to undertake full remediation at DAH.

II. Methodology

The findings in this report are based on the following sources of evidence:

- Detailed interviews with 21 current DAH employees, conducted in offsite locations chosen by the employees. Additional interviews with line operators were conducted during the WRC's September 2016 visit to the factory;
- Interviews with members of DAH management including Josué Moisés Maradiaga Mejía, Plant Manager; Karen Alicia Ortega, Human Resources Director; and Carlos Encalada, Manufacturing Director;
- Interviews with the factory's doctor, Lila Cristina Rodríguez Hasbun, and nurse, Heydi Liseth Sánchez, who together operate the factory's onsite clinic;
- A physical inspection of the plant, focusing primarily on occupational health and safety;
- A review of relevant documentation, including: DAH company policies; recent payroll statements; a report issued by the Villanueva fire department on factory fire safety; injury logs and related reports on occupational accidents; reports issued by a Honduran enterprise known as Cosesae on the noise level, lighting, temperature, and air quality at the factory; a factory log of worker visits to the onsite clinic and the company's policy with regard to visits to the clinic; records of meetings of the company's health and safety committee; a sample of employee personnel files; and other documents; and
- A review and analysis of applicable Honduran labor law.

III. Findings, Recommendations, and Company Response

The WRC's findings, detailed in this section, are based on the evidentiary sources listed above. Each violation is outlined below and accompanied by specific recommendations for corrective action, a summary of DAH's response to each of these findings and recommendations, and an explanation of the current status of the issue.

A. Wages and Hours of Work

1. Off-the-clock Work

Findings

Workers at DAH are scheduled to work five days a week. They work Monday to Thursday from 7:15 a.m. until 4:45 p.m. and Friday from 7:15 a.m. until 3:45 p.m. Every day they take an unpaid lunch break of 30 minutes for a total of 44 paid hours of work per week, the maximum amount of regular working hours established by Honduran law.²

In addition to the lunch break, the factory provides workers with two paid ten-minute breaks during their work shift, one in the morning and one in the afternoon. More than 80% of the workers interviewed offsite by the WRC reported that they come to work before the 7:15 a.m. start time and work through part or all of their daily breaks, including both the paid breaks and the lunch break, in order to meet the production goals established by the company. While the company does not require its employees to meet the production targets, the bonuses are a strong incentive for workers who, given the low wages in the apparel sector, need additional money to cover their family expenses.

One of the workers interviewed by the WRC reported the following with regard to work performed off the clock at DAH:

I frequently start working 10 minutes before the start of the shift and I work during most breaks. I do take my full lunch break, but most people only take 10 minutes for lunch so they can get back to work. They don't pay us for this time, but we get a production bonus if we meet our goal. If we don't meet the weekly goal, it was no use to work the extra time. [A plant engineer] told me when I first started working that the best teams don't take breaks and they have high production levels.

Another worker reported:

In order to make some extra money and earn a production bonus, everyone at the factory works during the breaks and part of the lunch break. It's a daily production goal and if we meet the goal every day of the week, then we get the bonus. But if we meet the goal four days of the week and there is one day that we don't meet the goal, then we only get paid minimum wage for the week. We feel like we have to work during our break so that we can get the production bonus and not just minimum wage. But there are many weeks that we only make minimum wage.

Workers also consistently reported that many of the factory employees arrive early in order to work before the start of the paid working day at 7:15 a.m. For example, one worker reported:

² Honduran Labor Code, Article 322.

They turn on the sewing machines at 7:00 a.m. and we are all at our sewing machines, waiting, that so that we are ready to work. ... We also work during our breaks and our lunch, we do this all the time. We do this to earn our production goal and if we meet the goal we earn the extra money and, if not, we are just paid minimum wage. That's why we take a 15-minute lunch and then work during the rest of our break.

Workers reported to the WRC that the factory turns off power to the sewing machines at the 4:45, or 3:45, end of workday and, therefore, workers do not stay after the end of the shift in order to continue production. A review of factory documents confirmed that the majority of the workers clock out promptly following the end of the regular workday.

Other workers stated that the nature of their position requires them to spend time during their breaks in order to fulfill daily requirements. For example, one worker who performs inspection of finished products reported to the WRC, "We have to look over every box. We can't let even one box go by without reviewing it. ... In order to complete all of the work, we skip our breaks, we stay after or we return from lunch early. Sometimes we have to start work at 7:00 a.m."

Article 330 of the Honduran Labor Code establishes that any time worked beyond the 44-hour limit is to be compensated at an overtime rate calculated at 125% of the regular hourly wage. Given that DAH's regular work schedule already includes 44 hours of work per week, any additional time should be paid at this premium rate.

Since the excess hours performed before work and during morning, afternoon, and lunch breaks are not recorded, it is clear that this time is not taken into account in calculating workers' compensation. The production bonus paid to workers may, in some cases, be adequate to cover the wages workers should earn for this off-the-clock work. However, workers reported that they only receive this bonus if they complete their production target all five days of the week. When they do not reach the bonus, they receive only the minimum wage for the recorded hours and therefore receive no compensation for the off-the-clock work.

This uncompensated, off-the-clock work constitutes a violation of Honduran law and collegiate codes of conduct. Even where workers are provided with production-based bonuses, employers must ensure that workers are compensated no less than the legal wage.

Initial Recommendations

The WRC recommended that, in order to comply with Honduran law, DAH ensure that it pays its employees for all of the time during which they are performing work. Because any time worked beyond the employees' regular work shift exceeds the 44-hour regular workweek established by Honduran law, this additional time must be paid at the statutory premium rate for overtime of 125% of the regular wage. In addition, the WRC recommended that DAH provide back pay to all workers for work performed off the clock.

Company Response

While, in response to the WRC's recommendations, DAH has committed to make changes in its practice going forward, it has not committed to provide back pay to workers for the off-the-clock work to date.

DAH initially stated that, "employees may choose to work before their scheduled start time or during their break and/or lunch periods but they do so entirely on their own volition and are neither required by the Company to do so nor subject to any disciplinary consequences if they do not." DAH later informed the WRC that "there is no legal requirement in Honduras that employers compensate employees for voluntary work time of this nature." While it appears to be true that workers have not been specifically ordered to work during these periods, this does not obviate the factory's responsibility to compensate workers for all time spent producing apparel. Workers must be paid for all time they spend working. If the company does not wish to incur the extra costs that arise from additional hours of work, it should institute systems that prevent this extra work from occurring.

To correct the violation, DAH committed to taking steps to ensure that its employees would not continue to work outside of their regularly scheduled hours unless they were specifically required or instructed to do so by their supervisor. DAH reported to the WRC that, "Going forward, the Company will not turn the power to the sewing machines on until the regular 7:15 a.m. start time and will turn the power to the sewing machines off during employees' unpaid lunch period." It further committed to instruct employees in non-sewing positions not to work during times other than those included in their scheduled shift unless they are otherwise instructed to do so by the supervisor with the understanding that this time will be compensated at the legally-required overtime rate.

Through additional interviews with workers, the WRC learned that, in November 2017, the company did begin to turn off the electricity during the workers' mid-day meal break, thereby eliminating off-the-clock work during that time. However, the workers reported that most employees are currently working off the clock during the morning and afternoon recess.

Current Recommendations

Without a thorough review of company records, it is not possible to calculate the exact amount owed to each of the workers at DAH. However, based on worker testimony, the WRC estimates that approximately 80% of all workers were, prior to the company's decision to turn the power off during the mid-day break, working no less than 15 and as many as 50 extra minutes (15 minutes in the morning, 15 minutes during lunch, and 10 minutes during each of the morning and afternoon breaks) of unpaid overtime each day. Under Honduran law, these additional minutes of work should be compensated at an overtime rate of 125% of the regular rate.³ Among the

³ The minimum wage for Honduran garment factories was set by the Honduran government for the year 2017 at 27.34 Lempiras per hour and for 2016 at 25.49 per hour. Article 330 of the Honduran Labor Code requires all hours beyond 44 in one week to be paid at a rate of 1.25 times the regular wage, or 34.18 Lempira per hour in 2017 and 31.86 Lempira per hour in 2016.

workers interviewed by the WRC, 80% reported engaging in this off-the-clock work; if 80% of the 1,200 workers at DAH were working an extra 50 minutes per day, the WRC estimates that the workers would be owed approximately \$584,000⁴ in back wages.

The WRC continues to recommend that DAH provide back pay to workers for all off-the-clock work performed to date. The WRC recommends that DAH discuss with worker representatives the pattern of off-the-clock work at the factory in order to develop a calculation of the amount of back pay owed to each of the DAH's employees for a period of two years, the period under which workers could claim compensation under Honduran law.⁵ The DAH proposal should be submitted to the WRC for review prior to the factory's issuance of back pay to workers for off-the-clock work.

2. Failure to Pay Meal Break

Findings

The collective bargaining agreement signed between DAH and the SITRADAHSA union in September 2011 states that the workers' schedule is from 7:15 a.m. until 4:45 p.m., Monday through Thursday, and 7:15 a.m. until 3:45 p.m. on Friday, with two 10-minute breaks, one in the morning and one in the afternoon, and a 30-minute meal break in the middle of the day.⁶ The WRC confirmed, at the time of its visit to the factory, that this is the schedule that is implemented at DAH. The practice at DAH is to pay the workers for all of the hours outlined above with the exception of the half-hour meal break.

In October 2012, the union filed a complaint with the Honduran Ministry of Labor⁷ stating that the schedule at DAH represents a "continuous"—or uninterrupted—work schedule and that DAH employees are therefore entitled to payment of all hours worked, including the meal break.

On March 8, 2013, the Ministry of Labor issued its findings and stated in its report that the factory was, in fact, obligated to provide additional wages to its workers for two and a half hours per week (the time of their meal breaks for five days). The Ministry's resolution specifically requires DAH to compensate workers with back pay for the unpaid lunch break for the months of September and October 2012.

DAH appealed the Ministry of Labor's March 2013 resolution. On December 8, 2014, the Ministry of Labor issued a second statement, upholding the March 8, 2013 findings and ordering DAH to remedy the violations and to pay a 10,000 lempira fine for its failure to comply with the Ministry's initial resolution. The Ministry of Labor issued a third document, dated March 17,

⁵ Minimum Wage Law, Article 43.

⁶ Collective bargaining agreement between Delta Apparel Honduras and SITRADAHSA, Clause 8, September 2011; the agreement was renewed on November 26, 2015 with the same language.

⁷ The union's complaint to the Ministry addressed two separate issues: the failure of the company to pay the workers' meal breaks and the failure of the company to fully compensate workers' transportation to and from the workplace. The issue of transportation is discussed below in a separate section.

2015, again requiring the company to comply with the earlier resolutions and to pay the resulting sanctions.⁸

In January 2017, DAH responded to an inquiry from the WRC concerning the factory's failure to comply with the Ministry of Labor's directive. The company told the WRC that it had not complied because it "disagrees" with the Ministry's ruling. On March 26, 2015, more than two years after the Ministry directed the company to pay the workers, DAH filed yet another appeal and cited this latest appeal to justify its refusal to pay the workers the money they are owed.

The filing of one appeal after another of an administrative order, as a means of indefinitely delaying compliance with that order, is a violation of university labor codes, which require compliance with local law. University codes exist, in no small part, because of the lack of effective enforcement of the law by local authorities. One form of such non-enforcement is the failure to follow through on administrative and judicial rulings by taking action to compel recalcitrant employers to respect those rulings. In this case, DAH is taking advantage of lax enforcement and issuing a succession of appeals as a means to avoid legal compliance.

Recommendations

The WRC notified DAH that it is required, under university codes, to implement the Labor Ministry's order.

Company Response

DAH responded to the WRC's findings by reiterating that, in March 2015, the company appealed the Ministry of Labor's 2013 findings. DAH requested that the WRC withhold further determination on the issue of the Ministry's recommendation until such a time as its latest appeal is resolved. DAH further stated, with no apparent sense of irony, that the WRC's recommendation that the company remedy this violation is "a hurried and inequitable approach" to the situation. As of the date of this report, the factory still has not paid the workers.

Current Recommendations

University codes require that DAH cease its cynical misuse of the administrative appeals process, by which it has denied compensation to workers for more than five years, and immediately pay the workers as directed by the Labor Ministry in 2013.

⁸ Ministry of Labor of Honduras, Notification Acts, March 8, 2013, December 8, 2014, and March 17, 2015.

B. Statutory Benefits

1. Failure to Fully Compensate Workers for Authorized Visits to the Doctor

Findings

Honduran law requires that all regular employees receive health care, which is made available to them through the Honduran Social Security Institute (Instituto Hondureño de Seguridad Social, “IHSS”).⁹ In order to provide workers with healthcare, the IHSS operates a system of medical clinics throughout the country where workers can visit the doctor and receive ongoing medical care. When a worker becomes ill or is injured, the worker visits an IHSS clinic. The worker should be excused from work upon provision to the employer of written confirmation from the clinic confirming the visit to the clinic. The doctor may authorize, when applicable, any number of days of absence required in order for the worker to recover from the illness or injury.

More than two thirds of the workers interviewed offsite by the WRC reported that, if they need to visit an IHSS clinic during working hours, they are compensated by the employer for only part of the time that they are absent from work in order to see the doctor. In addition to docking their pay for that day, workers reported that DAA deducts all or part of an additional day’s wage to which Honduran workers are entitled each week, known as the “seventh day” wage.

Human Resources Manager Karen Ortega confirmed worker testimony by stating that if workers visit an IHSS clinic located in the town of Villanueva, where the factory is located, the factory only covers the time of the doctor visit plus two hours of travel time. Ortega confirmed that any additional time that the worker spends at the clinic is deducted from the worker’s check, along with the partial deduction of the weekly seventh day wage.

Both the workers and Ortega stated that if workers need to travel to see a specialist at the IHSS clinic in the provincial hub, San Pedro Sula, they receive full payment for all time needed for the visit and transportation.

Workers believe that this policy was put in place during the past year because the factory prefers that the workers make use of the clinic located inside the factory. However, and as described later in this report, many workers reported that the factory clinic cannot, on any given day, see all workers who require medical attention.

Workers reported that the company policy does not take into account that the process of obtaining medical services at IHSS requires traveling to the clinic, obtaining an appointment time that may be several hours later, and then waiting for that appointment. The company’s policy of allowing only two hours beyond the appointment time appears to be based on the idea that workers should visit the clinic in the morning to obtain an appointment time, report to work until it is time for the appointment, and then return to the clinic. However, if workers are ill or injured, they may not be in condition to travel back and forth or to work and prefer to remain at the clinic to wait for their appointment. With regard to the company’s policy for visits to the

⁹ Honduran General Social Security Law, Article 3.

doctor, the number of hours it pays, and the deduction of all or part of the seventh day wage, the workers provided the following testimony:

- “I can’t visit the Villanueva clinics because if I get an appointment in the afternoon, I am supposed to return to work. If you are sick, how are you going to go back to work? I went to the clinic this week and I stayed at the IHSS clinic until 1:00 p.m. when the doctor could see me. I didn’t even feel like I could go home because I had a fever, so I decided to wait. I’m sure they will deduct the hours that I was at the clinic from my next check.”
- “Given that there is not good medical care at the factory clinic, I prefer to go to an IHSS clinic [outside the factory]. But the problem is that they deduct the hours from my check and they only pay for two hours’ leave. I prefer to go to the IHSS clinics when I am on vacation so that I don’t lose any pay. I would rather give up my vacation day so as not to lose any part of my wages.”
- “The company only pays the time that we are actually with the doctor and the travel time from the factory to the clinic. If there is an appointment available in the morning, then I am paid, but if there is no space available in the morning and I have to see the doctor in the afternoon, I’m supposed to return to the factory and work until it’s time for my appointment.”

Article 187 of the Honduran General Social Security Law states, “Employers must grant paid time off to their workers so that they may visit the doctor and receive medical treatment in the Institute’s medical assistance centers.” The Honduran Law on Seventh Day and the Thirteenth Month Bonuses states, in Article 7, that workers will not be paid the seventh day wage if they do not complete the full week unless they have a justified reason to have missed time from work.

Given that the Social Security Law does not limit the number of hours that the company must compensate workers for a justified absence to an IHSS clinic and given that full payment of the seventh day wage is required by law when the worker has a justified absence, the WRC finds DAH to be in violation of both laws and, by extension, university codes of conduct. While the company may prefer that workers use the factory clinic, or that they travel to work between receiving their appointment slot and participating in the appointment, there is no legal basis for DAH to impose these requirements on workers.

Initial Recommendations

The WRC recommended that DAH take the following steps to remedy the violations that have occurred and to ensure that no further violation occurs with regard to the right of workers to paid visits to the IHSS clinics:

- Pay workers who have been absent from work and who have presented written confirmation from the IHSS that the absences were related to a visit to the IHSS clinic, regardless of the location of this clinic, both their full day’s wage and the seventh day wage;

- Communicate to all workers that, going forward, they will be entitled to a full day's wage and the seventh day wage when they have an excused absence from an IHSS clinic. This communication should be made in the presence of a WRC observer; and
- Make employees whole for all wages lost as a result of the company's practice of taking deductions from workers' pay when the workers visited IHSS clinics during working hours. These payments should be made for all workers who have visited the clinic during the 2016 calendar year to the present date and who suffered a loss of wages or seventh day pay during that period.

Company Response

DAH has provided a number of explanations for its policies; none of these, however, affect the WRC's findings and recommendations in this case. DAH reported that it was employing a set of strict guidelines related to the payment of time requested by workers to visit the doctor in response to abuse of paid sick leave by employees. The company reported that its policy is to allow workers a length of time that it considers reasonable for visiting the doctor (one hour to go to the clinic and one hour to return). DAH also reported, in response to the WRC's findings, that there are few cases in which workers need more time to see the doctor than allowed for by the limits established by the factory. DAH reports, "Instances where an employee is not able to receive an appointment until later in the day but does not return to work are rare in the Company's experience. Moreover, if such employee's appointment at the clinic ultimately results in a medical incapacitation, which it should if they are indeed sick, that employee would receive full compensation for that day and remain eligible for a seventh day payment for that week."

However, as the WRC documented in its findings, there is no stipulation in Honduran law about the length of time that should be granted to workers in order to visit the doctor. It is not consistent with the law for an employer to add additional restrictions to this legally required right.

After further communication on this issue, DAH informed the WRC that it is willing to discuss this issue with the SITRADAHSA union in order to consider "a fair and balanced approach" to addressing the issue of paid leave to visit the doctor while also taking into consideration a problem that the factory reportedly encounters—workers' use of time for paid doctor visits to do other things outside the workplace that are not related to the doctor's visit.

Current Recommendations

While the WRC supports the company's proposal to discuss with the union how to best uphold the law and to ensure that workers are making appropriate use of their paid time off to visit the doctor, this does not remedy the violation.

The WRC continues to recommend that the factory remove any blanket limits on the amount of time allotted to workers for visits to the doctor. In addition, the WRC continues to recommend

that DAH provide all legally required compensation, communicate its policy to workers, and provide back pay to all impacted workers as described in our initial recommendations.

2. Failure to Provide Contractually Required Family Leave

Findings

Some DAH workers interviewed offsite by the WRC reported that they have not been able to obtain time off when they need to attend to a sick child or family member.

The collective bargaining agreement signed on November 26, 2015, between SITRADAHSA and DAH states, in Clause 13(B), that “in the case of a serious illness, as determined by a medical professional, of the worker’s mother, father, sons, daughters, husband, wife, life partner, sister or brother . . . the company will grant paid leave to its workers when needed for up to three (3) days per month and a maximum of twenty-five (25) days in the year....”

Factory Manager Josué Moisés Maradiaga confirmed that this is the policy of the company. Human Resources Manager Karen Ortega reported that a worker obtains permission for such leave from his or her direct supervisor. Ortega stated that the workers receive proportional payment of their seventh day wage based on the number of hours they work during the relevant week.

Some workers interviewed by the WRC reported that they have difficulty obtaining personal leave, even when the leave is for one of the reasons outlined in the collective bargaining agreement. One worker stated, “I have never taken a day of personal leave because whenever I have asked for the time off, my supervisor always says no.”

Another worker gave the following testimony: “There is no personal leave. One day I received word that my daughter was sick and I had to wait more than three hours to find out whether or not they would give me time off. Sometimes in these cases, the supervisors refuse to give us time off because they tell us that there is no one to cover our shift while we are gone. If I do get time off, it affects my pay because they don’t pay me for the hours that I was not at work.” The workers report that supervisors, who face pressure to meet their line’s production quotas, are reluctant to grant the workers’ requests for leave.

The terms of a collective bargaining agreement are legally binding under Honduran law¹⁰ and violation of a collective bargaining agreement constitutes a violation of workers’ freedom of association. In addition to the family leave clause of the collective bargaining agreement, the Honduran Law of Equal Opportunities for Women states that women workers are entitled to time off from work in order to care for their young children in case of illness.¹¹

¹⁰ Honduran Labor Code, Article 60.

¹¹ Regulation of the Law for Equal Opportunities for Women, Article 20(7), Executive Agreement Number 34-2000, November 28, 2008.

The issue of the seventh day pay is also addressed in Honduran law. Article 7 of the Honduran Law on the Seventh Day and Thirteenth Month Bonus states that, while workers do not receive the seventh day wage if they do not complete the full week, they should receive this payment if their absences are justified.

Given workers' mutually corroborative testimony that they are being denied their legitimate requests for paid time off when requested in order to care for family members, the WRC finds that the company is failing to fully implement the paid family leave contract clause, a violation of the collective bargaining agreement and, thus, Honduran law and international freedom of association standards.

In addition, company policy, as described by managers, regarding deductions to workers' seventh day wage constitutes a violation of Honduran law and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that, in order to remedy the violations outlined above, DAH do the following:

- Ensure that, going forward, workers are entitled to time off to take care of the needs of a sick family member. This time should be fully paid and should include full payment of workers' seventh day wage.
- Revise the mechanism established for workers in order to obtain paid time off. Since the supervisors are directly impacted by workers' requests for leave and may not be fully versed on the company's legal obligations with regard to paid time off, worker requests for leave should be solicited directly from the DAH human resources department.

Company Response

DAH responded to the WRC's findings and recommendations by stating that it was not aware of any employees who had been denied contractually required family leave. It reported, "The Company has provided and will continue to provide such leave as required and will endeavor to expedite such requests to the extent practical"

DAH reported to the WRC on August 11, 2017, that it had informed its workforce that employee requests for family leave, as provided for in the collective bargaining agreement, should be made directly to the factory's human resources department. DAH shared with the WRC a communication dated March 14, 2017, that stated that leave for emergencies should be requested directly from the human resources manager. This communication defines emergencies to be accidents or death of workers' children, spouse, mother, or father. The WRC asked for further clarification given that this communication does not make mention of cases of leave for illness of a family member. DAH did confirm to the WRC that leave for family illness is also now

channeled through the human resources department, but provided no evidence that this information has been clearly communicated to workers.

Workers interviewed in April 2018 reported that they continue to be required to submit requests for paid time off to their immediate supervisor, but that it is now a representative of the human resources department that decides whether or not the worker is entitled to paid time off.

The workers reported that they continue to view the determinations of when they are entitled to paid time off to be arbitrary and not in keeping with the terms of the collective bargaining agreement. For example, union leaders interviewed recently by the WRC reported the case of a worker who was not allowed to take paid time off to be with his spouse who was giving birth via caesarean.

While the policy that DAH shared with the WRC states that time off will be granted for “accidents or death,” the collective bargaining agreement states that the time off is “in the case of a [family member’s] serious illness, as determined by a medical professional.” The WRC therefore considers the company to be in continued failure to comply with the collective bargaining agreement with regard to paid family leave.

Current Recommendations

The company’s commitments to inform workers of the policy for paid family leave and to channel worker requests for leave through the human resources department are positive. However, given that the workers continue to report that they are not able to take paid leave for all appropriate instances, the WRC continues to recommend that DAH allow its workers to paid time off to take care of the needs of a sick family member. The WRC further recommends that DAH and the SITRADAHSA union work together to develop a specific set of criteria outlining the circumstances under which a worker can obtain paid time off to be with family members. This policy should be shared with workers and with supervisors and human resources officers to ensure that all parties properly implement the factory’s policy with regard to paid time off.

The WRC will continue to monitor the factory’s compliance with regard to paid family leave.

3. Failure to Provide Full Compensation for Worker Transportation

Findings

Article 42 of the Labor Code states that when workers must travel more than two kilometers to reach the workplace, the employer must pay for the transportation costs or provide the worker with transportation.

DAH reported to the WRC that its current practice is to pay 60% of transportation costs to all workers at the factory, including those who live less than two kilometers from the factory and for whom the factory would not be required to provide transportation. The company reported, and

the WRC confirmed, that these are the terms that were agreed upon by the SITRADAHSA union and factory management in the collective bargaining agreement signed between the parties.¹²

DAH noted that this transportation subsidy provides benefit to a greater number of employees and claimed that it was “potentially much higher in collective value than that provided by applicable law.”

Under Honduran law, employers are prohibited from enshrining terms in a collective bargaining agreement that are inferior to the requirements established by law.¹³ Regardless of the total amount of money provided to workers, and whether this is higher than the amount required by law, the factory’s practice represents a violation of the rights of those workers who live more than two kilometers from the factory and are not receiving the full transportation subsidy. DAH should, in keeping with the terms of the collective bargaining agreement, continue to offer 60% transportation subsidy to those workers who live less than two kilometers from the factory. But, in order to comply with the law, the factory must cover the complete cost of transportation for all workers who live more than two kilometers from the factory.

The Honduran Ministry of Labor has supported the WRC’s findings. As detailed in an earlier section, the FITH union federation filed a complaint with the Ministry of Labor in October 2012 regarding two issues, one of which was the failure of the company to provide adequate transportation compensation to workers.

On March 8, 2013, the Ministry of Labor issued findings that the company was only providing the workers with part of the transportation costs owed to them and that the employer should make the necessary adjustment so that the transportation costs were fully covered by the company. As noted above, DAH appealed this decision. The Ministry upheld its findings in a second report issued December 8, 2014. DAH reported to the WRC that it made further appeal of the Ministry’s findings on March 26, 2015.

The WRC finds DAH to be in violation of the Honduran Labor Code with regard to the payment of worker transportation costs.

Initial Recommendations

The WRC recommended that DAH should immediately adopt and implement a policy of paying all workers who live more than two kilometers from the worksite 100% of their transportation costs or providing them with transportation to and from the workplace.

In addition, the company should compensate all of these workers for the 40% unpaid transportation from the date that the practice started to the present.

¹² Collective bargaining agreement between Delta Apparel Honduras and SITRADAHSA, Clause 23, September 1, 2011; the agreement was renewed on November 26, 2015, with the same language.

¹³ Honduran Labor Code, Article 3.

Company Response

The company reported to the WRC that it did not agree with the WRC's findings but that it would be willing to reconsider its practices in conversation with the SITRADAHSA union. As in the case of the paid lunch break, DAH requested that the WRC allow for the issue to be decided by Honduran authorities by way of the appeal that was filed in March 2015. As noted in a previous section, the company's position that it will continue to wait for the conclusion of a protracted appeals process before considering a change in its practice is unacceptable; university codes exist in part to prevent the misuse of legal and administrative procedures as a means to avoid compliance with applicable standards.

Current Recommendations

The company must pay all workers who live more than two kilometers from the worksite 100% of their transportation costs, in compliance with Honduran law and Ministry findings, and it must make appropriate retroactive payment of unpaid transportation benefits to the affected workers.

C. Health Care: Inadequate Staffing of the Factory Clinic

Findings

DAH participates in a program that is part of the Honduran Social Security Institute (IHSS), the branch of the government that provides health care for all Honduran workers, known as the "Company Physician System." This program allows for a company to hire an in-house physician and other staff to provide medical services similar to those that are provided by other IHSS clinics. The doctors at the company clinic see patients, make determinations as to whether the worker needs time off from work, write prescriptions, and make referrals to specialists that can be fulfilled in the IHSS system. The program benefits both IHSS, which sees lowered use of its clinics, and the company, as a visit to the factory clinic requires less time off for a worker than a visit to the IHSS clinic.

The regulation governing the Honduran Company Physician System states that the factory clinic should "offer medical attention and healthcare to workers in a timely, integrated and efficient manner."¹⁴ The regulation does not require any specific ratio of health care professionals to employees or stipulate what percentage of the workforce the clinic should be able to see on a given day.

During the visit to DAH, the WRC interviewed the factory doctor, Lila Cristina Rodríguez Hasbun, and its nurse, Heydi Liseth Sánchez, who reported that the clinic has the capacity to see a maximum of 48 patients per day. They informed the WRC that the workers who wish to see the doctor make this known to their supervisors upon arriving to work and the supervisors of each module are able to send a maximum of five workers per day to the clinic. The clinic's medical staff then prioritizes, based on the description of each worker's case, which workers will be seen and in what order.

¹⁴ Regulation of the Company Physician System, Article 1(1), Agreement Number 09-JD-90, November 9, 1990.

The majority of the workers interviewed offsite by the WRC reported that the factory clinic is not able to see all of the workers who have health concerns on a given day. They gave the following testimony:

- “We have a doctor and a nurse but they see very few people every day. I have signed up to see the doctor many times, but I have never been called. Now I don’t even sign the list because its worthless to even try.”
- “There is a doctor and nurse but they provide very bad service . . . When I had Zika I signed up and they didn’t call me. The next day I forced my way into the clinic and told the nurse I wasn’t going anywhere until they saw me and so she had to see me.”
- “Five workers on each module can sign up to go to the clinic, but there are 100 or more workers in each module and only five people can go. Most people don’t even get to sign up.”
- “The doctor at the factory clinic is not allowed to authorize sick leave for workers. She told me that about six months ago that she couldn’t give sick leave because the company prohibits her from doing so. If someone can’t work for three days then the company doesn’t give sick leave, they just give the worker another assignment that is easier to do but they don’t authorize sick leave.”

Furthermore, while the Company Physician System does not preclude workers from visiting any other clinic that is part of the IHSS system, workers reported that, in practice, they are not able to visit another clinic, even when they cannot see the factory doctor given that the clinic has reached capacity. The workers reported that, as outlined in an earlier section, they are not fully compensated for the time required to visit a clinic outside the factory. Furthermore, workers gave testimony that the doctors at IHSS clinics outside the factory have told them that they have been instructed by DAH *not* to see DAH workers, despite any legal prohibition to do so. For example, workers reported the following:

- “They only see five workers per module and that’s it. There are many of us who don’t get to see the doctor. There have been many times when I haven’t been able to see the doctor and that’s when I want to go to another IHSS clinic, but the factory doesn’t pay our time when we go to an IHSS clinic outside the factory.”
- “About a year ago, I went to an IHSS clinic [outside the factory]. I told the doctor about my back problem and that I couldn’t go to work that day. He said to me, ‘I can’t authorize sick leave because as soon as I log your name into the computer, the company will know that you have come to see me and they have prohibited me from authorizing sick leave. So I’m going to give you some medication but then you have to go back to work.’”

- “In July, I went to see the IHSS doctor in Villanueva and he asked me where I worked. When I told him I worked at Delta he said, ‘There is a clinic and a doctor there. Why don’t you go there?’ I told him that the doctor saw a limited number of patients and that’s why I had come to his clinic. The doctor responded, ‘I am going to find out whether or not there is a limit. What would you think if I were to call? It isn’t that we don’t want you here, it’s your right to come to this clinic, but your bosses get mad at us when you come to this clinic rather than going to the factory clinic.’”

Also worth noting is that, of the 21 workers interviewed offsite by the WRC, 11 reported on mistreatment by the factory nurse, Heydi Liseth Sanchez. Testimony from workers included the following:

- “The clinic nurse treats us very poorly and she only calls the workers that she knows to see the doctor.”
- “The doctor is kind but the nurse is horrible. We have complained about the nurse’s behavior to the doctor, but nothing has happened.”
- “There are problems with the clinic nurse at the factory. She has a very mean temperament and gives poor service to the workers.”

The worker testimony collected by the WRC indicates that DAH is failing to provide workers with adequate opportunity to visit the doctor and is, thereby, failing to comply with the legal requirement to offer care to workers in a timely fashion. While the WRC did not interview IHSS doctors or administrators regarding their communications with DAH, multiple workers testified that IHSS doctors had expressed concern that they, as doctors, would be disciplined for providing care or sick leave authorization to the workers. Whether or not this is the result of direct communications from DAH to IHSS personnel, this perception on the part of IHSS doctors further limits workers’ access to care.

Initial Recommendations

The WRC recommended that DAH increase the staffing of the factory clinic in order to ensure that the clinic can provide care to all workers who require it and that no limits should be placed on the number of workers who can visit the clinic per day. The WRC recommended that DAH communicate to the clinic medical staff that they should provide workers with permission to take sick leave in accordance with their medical judgment.

The WRC also recommended that DAH clearly communicate to the other IHSS clinics located in the area that these clinics should feel free to treat any DAH worker who visit the clinics, in keeping with the law, and authorize sick leave to workers whenever it is medically required.

With regard to the factory nurse, while the WRC did not document specific incidents in which this DAH employee was in violation of standards with regard to abuse, harassment, or discrimination, the number of workers who commented on the nurse’s negative interaction with

workers was significant. Therefore, as a matter of best practice, the WRC recommended that DAH advise the factory nurse on the importance of treating all workers with fairness and respect in order to avoid incidents that may violate the law and university codes of conduct.

Company Response

DAH refused to undertake the remedies recommended by the WRC.

Regarding workers' ability to obtain care at the factory clinic, DAH stated, "The Company has regularly observed that employees seeking medical treatment on a given day are generally able to see the facility doctor and employees with more immediate medical needs are able to see the facility doctor with the prioritization assistance of the Delta Honduras Human Resources department."

While the factory stated that it does not believe that hiring additional medical staff is warranted, it expressed willingness to discuss and reconsider the issue with the SITRADAHSA union. In preparation for this discussion, the factory committed to conducting a study to quantify the number of employees seen by the factory clinic and the number of employees who report not being able to receive prompt attention from the clinic. Given the strength and consistency of the testimony that workers are not able to promptly see a factory doctor when they are sick, the WRC continues to recommend that the factory retain additional personnel.

The factory has denied that it has instructed either the onsite or IHSS clinic doctors to refrain from granting sick leave to workers. However, DAH told the WRC that it was willing to discuss with the SITRADAHSA union the feasibility of a communication to medical staff at nearby clinics that they should feel free to treat DAH workers and grant sick leave when necessary. As of April 2018, however, the union reported to the WRC that the company had not initiated this discussion with SITRADAHSA.

With regard to the factory nurse, DAH reported to the WRC that it had initiated the termination of this individual's employment, which was pending with the Honduran Ministry of Labor.

Current Recommendations

The WRC continues to recommend that the factory undertake the actions described in our initial recommendations.

D. Harassment and Abuse

Findings

DAH workers interviewed by the WRC consistently reported that they are subject to verbal abuse by plant supervisors. 17 of the 21 workers interviewed offsite reported the prevalence of verbal abuse by management and supervisors at the factory; some of these workers also reported instances of sexual harassment on the part of managers toward line operators. Many of the workers interviewed onsite *also* expressed concern about the problem of verbal harassment at the

factory. This is noteworthy given that, in the WRC's experience, workers interviewed at the workplace tend to be less likely to report violations out of fear of retaliation by management.

Workers informed the WRC that much of the verbal abuse comes from supervisors and is related to pressure to meet production targets. Workers interviewed gave the following examples of verbal harassment occurring at the factory:

- “There is a supervisor who treats the workers in a very offensive manner, telling them that they are ‘good for nothings.’”
- “The Production Engineer was speaking with a group of workers about problems related to sewing machines that are not functioning. She yelled at me, ‘Why do you come here? To work or what? Get some balls.’”
- “My former supervisor was always yelling at me that I was useless because my machine broke the needles. When I reported her to management, she denied having said this and then I was changed to a different module.”
- One worker described mistreatment of supervisors when the workers' machinery needs to be fixed, time during which the worker is unable to produce. This worker gave the following testimony to the WRC: “They should stop blaming us for the machine quality. This wears us down and is frustrating. A couple of weeks ago my machine was not working and my supervisor said to me, ‘The machine is fine, it's you who needs to work. I am going to bring another worker so that you can see that the machine is fine.’ The mechanic then looked at my machine and confirmed that it was not working and my supervisor continued to insist that it was in good condition. Another mechanic then arrived and detected the problem and everyone could see that I was not causing the problem at my machine.”
- “My first supervisor was constantly yelling at me for nine months straight because I wasn't meeting the production goal. I was new at the factory and her treatment would make me cry. She is really good at yelling at the workers and handing out warnings.”
- “Early this year I was working overtime and my supervisor was passing out work and I asked why he was giving some of my work to other workers. He got mad at me and responded, ‘If you want to work then you should work, otherwise you can f*** off.’”
- “My supervisor is constantly threatening us for any little thing. I asked to change to a different area about two months ago because I didn't like the way she treated workers. Her response to me was, ‘The times in which the workers were babied have passed. Now there are new rules and if I change you to another area, I'll have to put a write-up in your file.’”

Workers also reported to the WRC that the line supervisors use verbal harassment to pressure workers to spend as little time possible in the restroom, as this takes away from the time that they

are working toward the fulfillment of production goals. DAH's own company policy states, in the section on Harassment and Abuse, that workers cannot be denied the right to visit the restroom facilities. However, workers interviewed described incidents in which this policy is violated. They gave the following testimony:

- “Those of us who have worked at the factory for a long time can visit the restroom when we want to. But there is an instructor who is very abusive with the new hires and she makes note of the time that they go to the restroom. She records the time and only gives them five minutes in the bathroom and then she berates them for having taken longer.”
- “The restrooms are in good condition but we have to ask our supervisors for permission to go and they don't like that we are leaving our work and getting behind on our production goals. If we take more than a few minutes, they call our name on the loud speakers. There have been times when I have just sat down on the toilet and I hear my name on the loudspeaker, calling me back to work. This is embarrassing because everyone realizes that you are taking care of your personal needs.”

Of particular note at DAH is that the factory's general manager, Josué Moisés Maradiaga, was repeatedly named during offsite interviews for his abusive treatment of workers. Given that this is the factory's top position, Maradiaga's actions and attitudes toward workers sets the tone for how all other members of upper and middle management will treat the workers at DAH. Of the 21 workers interviewed offsite, 12 specifically mentioned Maradiaga by name or position for his abusive treatment of workers. Some examples of worker testimony include the following:

- In June 2016, a worker, who is also a union member, reported that Maradiaga saw him walking to the clinic for physical therapy and asked him where he was going. When the worker responded that he wanted to quit because of the physical damage to his body, he said that Maradiaga responded, “You better be careful, I have seen you outside causing trouble.” The worker understood this as a reference to a protest organized by the union for the company's alleged failure to pay the May 1 national holiday. The worker reported that again, in August 2016, Maradiaga saw him waiting to speak to a supervisor and when the worker told him why he was there, Maradiaga told him, in a tone that the worker considered threatening, to “be careful.”
- Multiple workers described incidents in which Maradiaga responded to workers in a threatening tone reminding them that he is from the Honduran province of Olancho. According to workers, people who come from Olancho are associated with aggressive acts of violence and workers interpret this comment from Maradiaga as a threat. One worker recounted an incident in which, after presenting a workplace complaint, Maradiaga responded to the worker by saying “You know exactly where I am from, I am from Olancho.” Another worker described an incident in which she was participating in a meeting to discuss the situation of workers with health-related problems. The worker reported that Maradiaga said to her, “You know that the company could fire you, right?” When the worker said that she would fight for her reinstatement through the Honduran legal system, Maradiaga allegedly responded, “You know it would take you 10 years to

win reinstatement and you know that I am from Olancho.” In both cases, the workers reported to the WRC that they understood the reference to Olancho to be a threat.

- Another worker told the WRC, “It is customary for all of our supervisors and managers to yell at us for any little thing. The plant manager is crude and yells at us and gets mad at us all the time. His treatment is very ugly. I wish the manager would stop humiliating us.”
- Another worker told of an incident in which Maradiaga approached her workstation asking why she had so many garments waiting for her attention. The worker reports that Maradiaga said, in a strong voice, “What are you waiting for to look through this work? I told you to look it over!” The worker reported to the WRC that she felt so much anger in Maradiaga’s expression that she was worried that he would hit her.
- Many of the workers interviewed by the WRC described Maradiaga’s attitude toward the workers as seeing them as “beasts of burden” or seeing the workers as “prisoners to their machines.”
- Another worker said the following, “What I would most like to change at the factory is the manager, Josué Maradiaga. He wants us to work as prisoners, like machines. We have to do whatever he says even if it’s not right or not the best thing for us. If you changed the manager, this would change everything. The environment at the factory changed for the worse when he came to work at the factory.”

More than one worker interviewed by the WRC described incidents of sexual harassment. One worker gave firsthand testimony of an exchange with a manager when she was first hired. According to the worker’s testimony, the manager said to the worker, “Be good to me and things will go well for you.” The worker said that the manager didn’t say anything more, but that she understood this comment to mean that she should offer the manager romantic or sexual favors. Later, the manager approached the worker to ask for her telephone number. The worker reported to the WRC that other female employees have shared with her similar stories about several managerial staff at the plant. Other workers commented that co-workers have shared with them descriptions of similar incidents of sexual harassment, including some involving the plant’s general manager, Maradiaga.

Article 95(6) of the Honduran Labor Code prohibits abusive treatment of workers stating that employers must treat their employees with due consideration, “abstaining from mistreatment by word or action and any other act that could affect their dignity.” The restrictions to workers’ use of the restroom facilities also violate internationally recognized health and safety standards.¹⁵

¹⁵ ILO Recommendation 164 (Occupational Safety and Health) §10(f) (“[T]he obligation [is] placed on the employer [...] (f) to ensure that work organisation, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health.”). For a detailed discussion of access to toilets as a health and safety issue, see, e.g., OSHA Memorandum, *supra*, n. 44 (“[T]he language and structure of the general industry sanitation standard reflect the Agency’s intent that employees be able to use toilet facilities promptly. The standard requires that toilet facilities be ‘provided’ in every workplace. The most basic meaning of ‘provide’ is ‘make available.’...

Given the prevalence of incidents described by workers of managers' and supervisors' treatment of workers, DAH is violating this standard and, by extension, collegiate codes of conduct.

Initial Recommendations

The WRC recommended that DAH take measures to ensure that supervisors or managers do not treat workers in an abusive manner, including verbal abuse and sexual harassment. The company should make clear to supervisors and managers that abuse and harassment will not be tolerated and should apply progressive discipline, up to and including termination, to any managers or supervisors who engage in such behavior. In addition, the WRC recommended that Delta Apparel Honduras train managers and supervisors in methods of motivating workers without using harassment or abuse. In light of the number of reports by workers of abusive treatment by the factory's general manager, DAH should take steps to communicate to Maradiaga and to all of the company's managers and supervisors that abusive treatment of workers will not be tolerated.

Given the fact that a worker provided a specific, credible report of the very serious violation of sexual harassment, the WRC recommended that DAH establish a reporting procedure for complaints about sexual harassment. A policy should be developed that allows for workers to report incidents of sexual harassment to several appropriate individuals to ensure that workers can report violations without having to go through the person who is perpetrating the harassment. This policy should be shared with all employees, in writing. Furthermore, the WRC recommended that the factory offer trainings and informational sessions to the full workforce to ensure that workers are aware of their rights, the seriousness of a violation of sexual harassment, and the mechanism by which they can file a complaint in the event of an incident of sexual harassment. These trainings should be conducted by an external organization with expertise in this area that is approved by the WRC.

Company Response

In response to the WRC's findings and recommendations, DAH clarified its existing policies and training practices, sharing with the WRC a copy of its code of conduct, which specifically prohibits the abusive behavior outlined in the WRC's findings. DAH further reported that it conducts annual trainings of supervisors on its policies with regard to harassment and abuse and that it has an employee hotline through which employees can anonymously bring these issues to the attention of management.

In response to the WRC's recommendations, DAH committed to contracting with a program known as "Procinco" to conduct its next annual training for supervisors and managers on issues of harassment and abuse. The company also agreed to send the factory's general manager to a specific, targeted training to "ensure that the Company's position on this issue is reinforced to the Delta Honduras Plant Manager via such a training."

Toilets that employees are not allowed to use for extended periods cannot be said to be 'available' to those employees.... Timely access is the goal of the standard.").

With regard to non-supervisory employees, DAH committed to maintain its code of conduct, which prohibits the abusive treatment that is outlined in the WRC's findings, and to "train employees on the purpose and requirements of such a policy." The company reported that these trainings would be conducted in October 2017 by the factory's human resources department.

It was the WRC's recommendation that trainings be conducted by an external organization with expertise in this area, approved in advance by the WRC. With regard to the trainings conducted with supervisors and managers, although the company identifies the organization "Procinco" as an independent third party service provider, it is, in fact, part of the employer-run Honduran Maquila Association. Furthermore, DAH's suggestion that the trainings for workers be conducted by factory management fails to comply with the WRC's recommendation. Given the repeated instances of abuse perpetrated by DAH supervisors and managers, the WRC does not consider training conducted by these same individuals as an adequate remedy to the violation and continues to recommend that an external party, well versed in this subject matter and approved in advance by the WRC, is selected to provide training to workers on the issue of harassment and abuse.

Current Recommendations

Given the credible, mutually corroborative testimony from multiple workers on this issue, the WRC continues to uphold its recommendations with regard to harassment and abuse. Trainings on this issue should be offered to supervisors and to all workers by an external party in order to ensure that all factory employees are aware of the company's policies with regard to harassment and abuse.

E. Gender Discrimination

1. Accommodations for Pregnant Workers

Findings

Honduras' Labor Code prohibits employers from requiring employees who are pregnant to perform strenuous work.¹⁶ Additional protections for pregnant workers are outlined in ILO Recommendation 95 on Maternity Protection (1952), which states that pregnant workers should be assigned to duties that will not prejudice the worker's health or the health of her child.¹⁷ While the ILO's recommendations are not legally binding, they serve as a guideline for best practices.

¹⁶ Honduran Labor Code, Article 147.

¹⁷ Recommendation 095, Article 5 on the "Protection of the Health of Employed Women During the Maternity Period" states in subparagraph (2) that "Employment of a woman on work prejudicial to her health or that of her child, as defined by the competent authority, should be prohibited during pregnancy and up to at least three months after confinement and longer if the woman is nursing her child." Subparagraph (3) states that "Work falling under the provisions of subparagraph (2) should include, in particular — (a) any hard labour involving — (i) heavy weight-lifting, pulling or pushing; or (ii) undue and unaccustomed physical strain, including prolonged standing; (b) work requiring special equilibrium; and (c) work with vibrating machines."

Workers interviewed by the WRC reported that employees who become pregnant while working at DAH continue to perform their tasks under the same conditions as non-pregnant employees and are provided no special accommodations, as stipulated by Honduran law.

While DAH management reported to the WRC that pregnant workers, upon request, can be moved to a different position during pregnancy, more than 60% of the workers interviewed offsite by the WRC reported that there are no special accommodations, or “light duty,” made available during pregnancy. Some of the workers reported that, if a doctor indicates that the worker’s pregnancy is high risk, the factory will make special arrangements for her, but that all other pregnant workers, as one employee stated, “continue to work just like the other line operators.”

Other workers gave testimony that some pregnant workers may avoid asking for light duty given that the pay that they receive during maternity leave is based on the average wage for the most recent period worked prior to taking the leave, which may be lower if the worker discontinues a task that earns a production bonus. For example, one worker reported, “I don’t see any preferential treatment for pregnant workers. They are at their sewing machines, working at the same rhythm as the rest of the workers until their last day. If a pregnant worker asks for a change in position, she won’t continue producing at the same rate and her maternity leave will be paid at minimum wage rather than based on her production wage. Sometimes workers ask for a change in position because they can’t take it anymore, but they know that they will only make minimum wage during their leave.” Another worker confirmed this by stating, “We could change position [during pregnancy], but most women don’t want to because if we are earning a production bonus our pay during maternity leave will be based on this wage, but if we are changed to a different position we will earn minimum wage during our maternity leave and that’s why we don’t want to change positions.”

Honduran law provides protection from workplace discrimination of pregnant workers and requires that workers be allowed to maintain job stability during this period. Therefore, the failure of the employer to ensure that the worker is earning the same rate of pay during her pregnancy as that which she is earning prior to pregnancy is a violation of Honduran law and, by extension, university codes of conduct.¹⁸

The failure of DAH to routinely provide pregnant workers with special accommodations, with no loss of pay during the workers’ maternity leave, violates both Honduran law and best practices outlined by international standards as well as university codes of conduct.

Initial Recommendations

The WRC recommended that DAH should, in keeping with Honduran law, provide employees who become pregnant, and whose regular positions require physically strenuous work, the option of a temporary assignment to non-strenuous work. This reassignment of tasks should not result in any loss of pay or forfeiture of the right of the worker to return to her original position after childbirth and maternity leave. Attaching negative consequences to the transfer to light duty,

¹⁸ Honduran Law of Equal Opportunities for Women, Article 51.

such as loss of pay or loss of initial position, violates Honduran law and makes it less likely that workers will request the accommodation that they need for their health and to which they are entitled under the law.

Company Response

DAH's response suggests that it does not have a full understanding of the legal requirements regarding pregnant workers. DAH stated, "The Company provides light duty work to any employee with child if they are designated to be medically incapacitated or a heightened health risk by a physician." DAH informed the WRC that it believes that this approach is consistent with the law. However, Honduran law, as stated in the WRC's findings, says that *no* pregnant worker should be required to perform strenuous activity and makes no specification for the need of a medical determination in order to be assigned to light duty.

DAH also said in its response to the WRC, "Employees with child that are provided light duty work receive the same base compensation as they received in their regular position." However, given that workers who are not on light duty earn a salary that includes production bonuses, calculating the rate of pay during pregnancy or maternity leave on "base compensation" is equivalent to a lower rate for workers than they are accustomed to earning.

DAH did clarify that pregnant workers are entitled to limited protection of their salaries. The company informed the WRC, "During the three weeks prior to taking medical leave due to pregnancy, the compensation of these individuals is protected and they receive no less than average compensation they received during their prior week of work, including any productivity bonuses." However, the company did add that any worker who is transferred to light duty prior to three weeks before taking maternity leave would not qualify for this increased amount during leave, but rather would be paid "minimum compensation" during the period of her leave.

Current Recommendations

The WRC continues to recommend that DAH offer light duty to all pregnant workers who are performing physically strenuous tasks and to pay them, during pregnancy and maternity leave, at an average rate of pay equivalent to that which they earn when they are not on light duty.

2. Accommodations for Breastfeeding Workers

Findings

Workers interviewed by the WRC reported that the company does not provide a space for breastfeeding workers, as required by Honduran law.¹⁹ Of the 21 workers interviewed offsite prior to the WRC's visit to the factory, 14 workers stated that there was either no place to breastfeed or that they did not know whether or not the factory had such a facility. One worker reported to the WRC that she had no knowledge of a designated area for breastfeeding and, as a result, had pumped milk in the factory restroom.

At the time of the WRC's visit, the WRC learned that DAH does in fact have an area for workers to breastfeed their children or to pump milk, as well as a small refrigerator for storing milk. At the time of the WRC visit, however, nothing was stored in the refrigerator designated for breastfeeding mothers, a further indication that workers are not aware of this facility.

Honduran law requires the employer to provide two 30-minute breastfeeding breaks to workers who have children six months or younger and states that the company must provide a space within the workplace specifically designated for breastfeeding.²⁰

While DAH has created such a space, in keeping with the law, the company does not appear, in practice, to have provided workers with the information necessary for them to make use of the space. While the WRC does not find this to be a violation of the standard, it is a clear area for improvement.

Initial Recommendations

As a matter of best practice, the WRC recommended that DAH conduct an informational campaign to ensure that factory workers know that there is an area in the factory that has been designated for female workers to breastfeed their children and/or to pump and store milk.

Company Response

On February 22, 2017, DAH responded to the WRC's best practice recommendation by stating that it had "communicated and will continue to communicate to the Delta Honduras workforce that it maintains a privacy-enabled room for breastfeeding and related activities." However, workers interviewed by the WRC in April 2018 reported that they had not received this



¹⁹ Honduran Labor Code, Article 140.

²⁰ Id.

communication from the factory. In August 2017, DAH informed the WRC that it was informing new workers of the availability of the breastfeeding area during a new worker orientation.

Current Recommendations

The WRC continues to encourage the factory to ensure that all workers are aware of the breastfeeding area at the factory.

3. Legally Required Onsite Childcare

Findings

DAH does not provide its workers with a childcare center for the care of employees' young children during working hours. While there are multiple laws that speak to the issue of childcare, the controlling law on this issue, the Law of Equal Opportunities for Women, states the following: "All employers who have at their services more than thirty workers [male and/or female] are required, in each of their establishments that meet this condition, to provide, at their expense, a childcare center and nursery approved by the General Labor Inspectorate in order to care for the children of their workers who are under the age of seven. Appropriate staff will care for the children during working hours. The National Institute for Women may, at any time during the workday, inspect these centers without prior notice and verify the quality of service that is being offered."²¹

Of note with regard to the requirement of childcare is that, as part of a tripartite agreement signed in December 2014, garment industry representatives and worker representatives together with the Honduran government agreed to implement a pilot program of community childcare for the children of garment sector workers. Worker advocates have reported to the WRC that community childcare centers are preferable to many workers, as opposed to childcare centers located on the factory premises, for reasons of proximity to home and family and the safety of their children. The dialogue as to the location of childcare centers, in any case, does not impact employers' legal responsibility to provide quality childcare and nursery services, at their expense.

When questioned about the fact that DAH does not currently provide childcare for its workers, the factory's Human Resources Manager, Karen Alicia Ortega, stated that the company did not have plans to provide childcare to its workers nor was it involved with any discussions being facilitated by the Tripartite Commission.

Given that DAH reports a total workforce of 1,200 workers, the factory is violating national law and, by extension, university codes of conduct.

²¹ Regulation of the Law of Equal Opportunities for Women (2008), Article 23.

Initial Recommendations

The WRC reported to DAH that it has the obligation to provide safe and sanitary childcare facilities for the young children of its workers, staffed by properly trained individuals, at a childcare center that should be maintained in compliance with relevant Honduran legal standards and, as required under the Honduran Labor Code, certified by the Ministry of Labor.²²

The WRC recommended that DAH make a good faith effort to ensure that, within the next 12 months, a mutually agreed upon childcare center is established, or contracted with, to provide childcare for the children of DAH workers. The WRC recommended that DAH pursue this in coordination with the process being developed by the Tripartite Commission, which may be most feasible through the industry representative in this Commission, the Honduran Maquila Association. While the tripartite process is still far from addressing the widespread violation of this legal requirement, it does offer a venue for dialogue between workers and employers to ensure that quality, affordable childcare is provided to workers in accordance with the needs and specifications outlined by workers and their representatives.

Company Response

In its response to the WRC's recommendations, DAH recognized that it does not have an onsite childcare facility. The company stated that it would make "a good faith effort to pursue the establishment of such a facility in communication with the Honduran Maquila Association." The company reported to the WRC in August 2017 that it had attended a meeting with other interested parties to learn more about the Honduran pilot program. However, the SITRADAHSA union reported to the WRC as recently as April 2018 that, to date, the company has not engaged the union in discussions about the best path forward in meeting its obligation to provide childcare for the workers at DAH. The union is engaged in discussions with union representatives of the Tripartite Commission around the provision of daycare in Honduras.

Current Recommendations

While the company made a commitment to move forward in this area, to date, workers report that no progress has been made. The WRC emphasizes that, as per our original recommendation, any such effort should include not only the manufacturing association, but also worker representatives. This process should include good faith negotiation with the workers' union on the provision of and funding for a quality childcare option that best meets workers' needs.

F. Freedom of Association

Findings

As noted above, DAH workers registered an independent trade union, the Union of Delta Apparel Honduras Workers, or SITRADAHSA, which is affiliated to the Independent Federation of Workers of Honduras, FITH, on November 6, 1999. A third collective bargaining agreement

²² Honduran Labor Code, Article 142.

was signed on November 26, 2015, and the worker leaders report to the WRC that, in accordance with the agreement, they meet with management once every 45 days to discuss workplace issues. The factory's general manager confirmed that he personally participates in these meetings. Acceptance by management of the union and its willingness to meet with the union on a regular basis to address workplace concerns is significant in the Honduran textile sector, where there is a widespread rejection of workers' right to freely associate.

Despite these positive elements of the labor-management relationship, workers reported that factory managers not only regularly express hostility to the union, but threaten workers with retaliation and attempt to dissuade new workers from joining the union.

Workers interviewed by the WRC gave testimony that the managers and supervisors at DAH frequently express hostility toward the union. For example, one union member described an incident in which he requested that the union president be called as his advocate in dealing with a conflict with his supervisor, as required by Honduran law²³ and by the legally binding collective bargaining agreement.²⁴ The worker reported to the WRC that the supervisor responded to the worker by saying, "What is the union? That shit is no good."

As in the case of the factory's harassment of workers, the General Manager, Josué Moisés Maradiaga, was cited by many of the workers interviewed for making his dissatisfaction with the presence of the union known in the factory. One worker reported the following to the WRC: "I have heard the plant manager Josué Maradiaga walking down the aisles of the production floor saying that the union is getting into a lot of trouble with the company."

Workers reported that they frequently hear comments from managers and supervisors that they shouldn't join the union because, if they do, they won't be able to find work at another factory, a reference that the workers associate with the common practice in Honduras of "blacklisting" factory workers in the industry for having participated in a labor union.²⁵ One of the workers interviewed by the WRC reported that, when he joined the union, his direct supervisor said to him, "Stop running around with those fools. All that is going to happen is that you won't be able to find a job at any other factory because you know very well that those who join the union are a lost cause." Another worker told the WRC, "The company is against the union and works to keep people from joining. They tell the workers that they are going to label the workers as unionists so we won't be able to find another job when we leave the factory." As this testimony indicates, workers interpret the comments about blacklisting as threats that if they became active in the union, they are likely to be not only terminated, but also prevented from seeking employment elsewhere.

²³ Id., Article 472.

²⁴ Collective Bargaining Agreement between Delta Apparel Honduras and SITRADAHSA, Clause 1, November 26, 2015.

²⁵ United States Department of State, Bureau of Democracy, Human Rights and Labor, *Honduras 2015 Human Rights Report*, page 35 states "There was credible evidence that some employers in the manufacturing industry continued with impunity to blacklist employees seeking to form union," <http://www.state.gov/documents/organization/253235.pdf>.

In some instances, factory management has directly discouraged individual workers from exercising their right to join the union. For example, a worker interviewed offsite by the WRC reported that the Human Resources Assistant told him at the time that he was hired, “Be careful about joining the union. If you join the union, everything will go wrong for you.” Another worker shared a similar story about his experience at new hire orientation. He told the WRC, “At the orientation conducted by management when I was hired, our entire group of 12 was told, ‘When someone approaches you at your sewing machine and asks for your identification card so you can join the union, you should tell them no. This is bad for you because you are new.’” Workers interpreted these comments as threats that if they joined the union, they would experience retaliation from management. Workers serving as leaders in the union report that these threats have resulted in fear, particularly among newer workers.

Interviews with leaders of SITRADAHSA revealed that the factory does not consistently allow for the union to represent their members when there is a workplace dispute. For example, two of the leaders describe an incident that occurred in September 2016 in which they were away from the factory attending a union meeting. The two leaders received a call from a worker who asked for their assistance in resolving a workplace dispute with her superior. The two leaders returned to the factory, but were told by the security guard upon their arrival that the human resources department had informed the guard that the union leaders should not be allowed into the factory, thereby limiting their access to the worker to serve representational functions. Another union leader described a similar incident that occurred on November 5, 2016, in which he was denied access to the factory on a day that he was on union leave but was called by one of the workers to represent her in a workplace dispute.

Honduran law clearly states that workers have the right to freely join the organization of their choosing, including a labor union.²⁶ The law also prohibits any acts of interference by the employer in workers’ exercise of this right.²⁷ With regard to the right of workers to have representation of the union leaders, the Honduran Labor Code, Article 491, stipulates that one of the functions of the union is to represent its members in dealings with the authorities, the employer, and other parties.

Multiple workers provided consistent testimony that managers have threatened workers and attempted to dissuade newer workers from joining the union, rather than allowing these workers to make their own free choice. Furthermore, the union leaders provided clear testimony that DAH management has limited their access to workers at the time of a workplace dispute. Given this information, the WRC finds the company to be in violation of Honduran law and, by extension, collegiate codes of conduct.

²⁶ Honduran Constitution, Article 128(14).

²⁷ Honduran Labor Code, Article 469.

Initial Recommendations

The WRC recommended that DAH take the following steps:

- Issue a verbal and written statement to all DAH employees, to be delivered during working hours and posted permanently in a public location in the factory, stating that DAH respects the right of workers to join or form a union of their choosing and that workers will not be monitored, disciplined, or discriminated against in any way for exercising this right. The WRC should be present at the time that the statement is shared with the factory employees to observe the process and ensure that it is executed in a neutral fashion that will achieve the desired result. The contents of this statement should be approved in advance by the WRC and by SITRADAHSA before it is communicated to employees.
- Ensure that all managers and supervisors are aware of the right of union leaders to represent the members of their union at the time of a workplace dispute and that the failure to do so is a violation of Honduran law.
- Arrange for an outside labor rights organization, such as a nongovernmental organization or trade union, to provide separate onsite trainings on company time for all workers and all managers concerning workers' rights to join and form a union. The provider of these trainings should be approved in advance by the WRC and by SITRADAHSA.

Company Response

DAH has denied that the company interferes or restricts employees from exercising their freedom of association, a right that is guaranteed by the company's code of conduct. It also reported that supervisors receive training on the code of conduct, including the importance of respect for freedom of association.

DAH did commit to provide a training for supervisors and managers facilitated by the branch of the Honduran Maquila Association known as Procinco, a training which would include material on freedom of association and, as mentioned above, harassment and abuse.

With regard to non-supervisory employees, the company did not express willingness to look for an outside party, approved in advance by the WRC, to provide training sessions on freedom of association to workers and said, rather, that it would "maintain and enforce a code of conduct addressing freedom of association and provide and explain the purpose and requirements of such policy to each employee." It also stated that it would continue to maintain a "well-publicized employee 'hotline'" that allows employees to report violations of freedom of association and other issues to a person within the company that is not the worker's direct supervisor or manager.

The company disputed the WRC's finding that the SITRADAHSA union is not able to represent workers in workplace disputes. It reported, "The established practice at Delta Honduras is for the union to be notified and brought to the facility in the event of a discharge hearing involving an

employee. If the dispute involves a disciplinary counseling rather than discharge hearing then employees may request for the union to attend the appeals of any corrective action resulting from such counselings [sic].”

As mentioned in the section on harassment and abuse, the WRC recognizes that these violations are sometimes perpetrated by factory supervisors or, in this case, representatives of human resources. Regardless of whether management is aware of these individuals’ actions, the testimony collected by the WRC from DAH workers strongly indicates that a violation of workers’ freedom of association does exist at DAH.

Follow-up interviews conducted with workers at DAH provide evidence that this problem persists, despite the factory’s claims to the contrary. For example, in February 2017, one of the DAH workers interviewed by the WRC reported that she had been called to the human resources office and had requested that a union representative be present. The union representative joined the worker at the human resources office, as per the company’s stated policy, but was told by the manager, “this is a problem with the worker, not with you.” The union representative was not allowed to be present for the presentation of disciplinary action by human resources to the worker.

Current Recommendations

If DAH maintains a strong commitment to respecting workers’ freedom of association, it should have no difficulty implementing the recommendations of the WRC. The WRC continues to uphold the initial recommendations with regard to freedom of association.

F. Occupational Health and Safety

1. Excessive Heat Levels

Findings

The Honduran law regulating occupational health and safety states that thermal and humidity conditions in the workplace environment should not create a risk to workers’ health and safety.²⁸ The same regulation establishes specific limits for the temperature in the workplace environment.²⁹

In interviews conducted by the WRC, workers at DAH consistently reported that the high temperatures at the plant were among their primary workplace concerns. Every single worker interviewed offsite by the WRC reported excessive temperatures at the factory. A few examples of the testimony provided to the WRC included the following:

- “It is very hot at the factory. In May, I saw a worker faint because it was so hot.”

²⁸ Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Executive Agreement Number STSS-053-04, Article 338, October 19, 2004.

²⁹ Id., Article 339.

- “It is very hot. I have high blood pressure and the heat makes it worse. I get headaches and feel like vomiting.”
- “We sweat excessively. I have to take off my apron because I can’t take the heat.”
- “The extreme heat makes us very tired. It is difficult to breath and I sweat excessively. I have to take off my mask every few minutes.”

Many of the workers interviewed by the WRC reported that they believed that there is no air conditioning system functioning at the factory. Other workers reported that there is an air conditioning system, but that it does not provide sufficient cooling necessary in order to maintain the building in comfortable working conditions. During its visit to the factory, the WRC confirmed that the factory does have an operational air conditioning system, but found that it did not provide adequate cooling. The WRC measured the temperature in several parts of the building and found that it did not comply with the health and safety regulation, which requires an ambient temperature between 14° and 25° Celsius (57.2° - 77° Fahrenheit).³⁰ In the La Paz section of the factory, on the day of the WRC’s visit, the temperature measured 85.6° F. In the cafeteria, the temperature measured 89° F; in the kitchen, 90.1° F; near the lockers, 87.1° F; at Module 6, 84.9° F; and in the storeroom 88.3° F. All of these temperatures exceed the limits established by Honduran law.

Notable, the WRC found no thermometers on the factory floor. While not required by Honduran law, many factories provide thermometers in production areas, which allow both floor-level supervisors and line operators the opportunity to monitor the temperature on the production floor and report excessive heat to management.

WRC investigators reviewed a July 13, 2016 ambient temperature study commissioned by DAH that stated that the factory did not violate the limits established by law. It may be that the factory temperature on the day that this audit was conducted was in compliance with the legal requirements. However, given the testimony of every single worker interviewed offsite by the WRC, together with the measurements taken by the WRC the day of its visit to the factory, the WRC finds that the factory is in violation of Honduran law and, by extension, university codes of conduct.

Initial Recommendations

In order to remedy the violations outlined above, the WRC recommended that DAH do the following:

- Ensure that the air conditioning system is being operated at an appropriate temperature during all working hours in order to maintain the temperature of the building within the legally required limits.

³⁰ Id.

- Conduct periodic monitoring of temperatures and humidity in work areas and install the necessary engineering and administrative controls to prevent heat stress and ensure worker comfort.
- Install thermometers throughout the plant so that supervisors and employees can monitor temperatures in their work areas and report excessive heat levels to the factory management for corrective action.

Company Response

In response to the WRC's recommendations, the factory initially stated that recent temperature values monitored by the factory were below or equal to legally established limits. However, after further communication with the WRC, the factory agreed to purchase new air conditioning units in order to provide better cooling of the factory environment; these units were installed in the factory in 2017. Workers interviewed by the WRC in August 2017 and April 2018 confirmed that the overall temperature of the factory had improved from the time when the initial interviews were conducted in 2016 and that now they find the climatic conditions at the factory to be comfortable.

Current Recommendations

Given the steps taken by the factory to remedy the violations, the WRC considers the factory to be in compliance with its obligations under university codes of conduct.

2. Poor Air Quality

Findings

Every worker interviewed offsite prior to the WRC's visit to the factory reported problems related to the factory's air quality. Along with ambient temperature, air quality was the top complaint raised by workers with regard to workplace conditions. The factory does provide workers with masks, as required by law,³¹ but, according to workers, does not require their use. Furthermore, workers reported to the WRC that they often choose not to use the masks given the excessive heat in the plant, as described in the previous section.

Specific testimony collected from DAH workers about the factory's air quality included the following statements:



³¹ Id., Article 296.

- “The air is heavy with dust that flies in the air. It is uncomfortable to use a mask because it makes us sweat. It’s horrible—our heads, shoes, clothes, and bodies are covered with fabric dust. When we finish in the afternoon we are covered in dust and the colors of the garments.”
- “I suffer from respiratory problems and have been seeing the doctor at the IHSS clinics. He told me that the dust is what is causing these problems because so much of it is in the air.”
- “There is too much fabric dust. We are always covered with it on our head, clothing, face, our entire body. Whatever the color is that we are working on, that is what color we are. It gives me allergies in my throat. Many of my co-workers have asthma.”
- “I was having a lot of ear pain and I went to see the doctor. He cleaned out my ears and showed me that what was causing the pain was an accumulation of fabric dust. He told me that this was causing the pain and that it could cause me to lose my hearing and that it was bad to have so much dust in my ears.”
- “There is a lot of dust in the environment ... it affects my vision. The doctor told me that I should use glasses because the dust is damaging my vision. It makes my eyes red and water.”

Several of the workers cited the large fans that circulate air in the factory as the culprit for the excessive circulation of fabric dust in the air, which affects the overall air quality. Workers reported:

- “There are large industrial fans and they circulate the dust and cover our bodies with fabric dust. The air is heavy with the dust that circulates in the environment. When I go to the bathroom and blow my nose, a lot of dust of the color of garment that we are working on comes out.”
- “The cleaning staff sweeps up the dust three times a day, but we are still covered in it. The fans spread dust all over us and we are covered with dust all the time. This affects my throat. I’m always coughing.”
- “There is a lot of fabric dust that is spread around by the fans. I constantly have a sore throat and colds even though I use my mask. The dust bothers my eyes because the fans are moving it around.”

The WRC’s physical inspection of the factory confirmed the presence of the large fans mentioned



by the workers. The WRC found that the factory does use a local exhaust ventilation system, but the system does not appear to be connected to individual sewing machines. Furthermore the WRC could not confirm whether or not the system was operating in the entire factory. The WRC also visually observed dust on the sewing machines, the workers' clothing, in the first aid kits, and other surfaces, and the WRC investigator felt irritation in her nose during her walkthrough of the factory floor.

Honduran law requires the employer to take the steps necessary to ensure that the factory's air quality does not have any negative effects on workers' respiratory health.³² DAH did provide the WRC with the results of an air quality study that was conducted on July 13, 2016, which stated that the respirable particles found at the factory was within the permissible levels established by law. Without a technical review of the study by an air quality specialist, the WRC cannot confirm whether or not the study is credible. What is clear from the WRC's investigation, based on both worker testimony and the WRC's physical review of air quality conditions, is that the factory is not in compliance with the standard requiring it to maintain proper air quality that does not negatively affect worker health. Therefore, the WRC finds the factory to be in violation of this standard and of university codes of conduct, which require factories to provide a "safe and healthy working environment."³³

Initial Recommendations

The WRC recommended that DAH take active steps to improve the factory's air quality to a point where it is no longer causing adverse health effects to workers. These steps may include improved engineering controls (such as an improved local exhaust ventilation system that functions throughout the factory) and/or administrative controls (such as a robust housekeeping program where a worker is assigned to vacuum settled dust from all horizontal surfaces).

Company Response

In response to the WRC's findings, DAH reported that the factory has "established air quality testing and monitoring procedures in place and all testing indicates that Delta Honduras is in compliance with applicable requirements," that it had an exhaust system it considered adequate, and that it would continue to monitor the issue. DAH did agree to engage the services of an industrial air quality expert to assess the air quality at the factory and to recommend any improvements to engineering and/or administrative controls.

Current Recommendations

The WRC recognizes that the factory's engagement of an air quality specialist is an important first step in determining how to improve the factory's overall air quality. The WRC recommends that DAH consult with the WRC and seek its approval in selecting a specialist for this purpose to ensure that the parameters of the study meet with industry standards in terms of methodology and execution. The results of the study should be shared with the SITRADAHSA union,

³² Id., Article 301.

³³ Collegiate Licensing Company, Special Agreement Regarding Workplace Codes of Conduct, II(6).

members of the factory's Health and Safety Committee, and the WRC. The WRC will continue to monitor the factory's compliance with air quality at DAH.

3. Noise Levels

Findings

The Honduran health and safety regulation states that the maximum noise level for a worker exposed to the noise for eight hours or more is 85 decibels.³⁴

More than 90% of the workers interviewed offsite by the WRC reported that the noise levels at the factory are very high due to both the sound of the sewing machines and music that is played over the factory's loud speakers. Many of the workers reported to the WRC that they suffer from frequent headaches, which they attributed to the noise levels at the factory.

The workers interviewed by the WRC also reported that, in keeping with the Honduran health and safety regulation, they are required to wear earplugs, which reduce the effect of the high noise levels. However, workers reported that the earplugs are hard and uncomfortable and that their use for nine hours a day is painful. Furthermore, some of the workers reported that, despite the use of the earplugs, the noise was excessive. For example, one worker reported to the WRC, "I use the earplugs every day, but even still I can hear a lot of noise." Another worker concurred, "The noise level is very high, even with the earplugs you can hear loud noise... the noise gives me a headache."

The WRC's onsite inspection at DAH found that the noise level in the factory ranged between 91 and 101 decibels. The WRC confirmed that the employees were, in compliance with the law, using earplugs.

A July 13, 2016 noise level study commissioned by DAH and shared with the WRC showed that the factory does, in fact, surpass the 85-decibel limit established by law. This study makes a series of recommendations, including a review of machinery and equipment to look for ways to reduce the noise level as well as taking steps to ensure that workers are educated about the importance of protective equipment and an annual auditory test for affected workers.

Given that all areas of the factory where the WRC measured the noise levels on the production floor exceeded the legal limit established by Honduran workplace regulations for noise, the WRC finds that DAH is in violation of the law and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that the factory take any steps necessary to reduce the overall noise in the factory to legally acceptable levels. Additionally, the WRC recommended that the factory procure alternative earplugs that are more comfortable for the workers and that comply with

³⁴ Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Executive Agreement Number STSS-053-04, Articles 353 and 354, October 19, 2004.

occupational health and safety standards for the protection of workers' auditory health. If DAH had not yet complied with the recommendations outlined in the July 2016 study, the WRC recommended that it take immediate steps to do so.

To assess the most effective way to achieve this throughout the factory, the WRC recommended that the company contract with a specialist in occupational noise.

Company Response

The company responded to the WRC's findings and recommendations stating that, when factoring in the use of earplugs, it is in compliance with the legal standard. However, the standard sets a noise level and does not specify that this level may be higher if a worker is required to use earplugs.

With regard to the earplugs supplied to workers, DAH stated that the "ear plugs are approved by applicable authorities (OSHA and/or equivalent) and are also the same type used effectively in the Company's other facilities." The company did state that it would be willing to discuss with the SITRADAHSA union alternative earplugs that the union may identify.

It also stated that it will continue to conduct audiometric testing and hearing conservation programs and that it will take the necessary steps to provide a workplace with noise levels that comply with the legal standards.

Current Recommendations

The WRC continues to recommend that the factory take any steps necessary to reduce the overall noise in the factory to legally acceptable levels. In order to do so, the WRC continues to recommend that the company contract with a specialist in occupational noise.

Given worker testimony that the earplugs supplied by the company are uncomfortable and given that the factory is currently relying on the earplugs in order to comply with noise levels, the WRC continues to recommend that DAH procure alternative earplugs that are more comfortable for the workers. While the WRC encourages the factory to consult with worker representatives before making a purchase of new ear plugs, the factory should not solely depend on the union to recommend a new style of earplug and should research options before discussing with the union.

4. Fire Safety

Findings

During offsite interviews conducted by the WRC, workers raised a concern with regard to the erratic sounding of the factory alarm system. The Honduran health and safety regulation requires that the factory have an alarm system in place³⁵ and that the alarm be properly maintained.³⁶

³⁵ Id., Article 216(a).

³⁶ Id., Article 220(1).

Several workers reported to the WRC in offsite interviews that the alarm system sounds several times during a day or week. The following are examples of the testimony collected from workers with regard to the alarm system:

- “The alarms sound frequently. This happens almost every day. The managers are always apologizing for this, but last week it went off three times.”
- “Something very dangerous that is happening is that the alarm systems sounds one or two times a day and all we know is that they are testing the system. This happens almost every day and we are told not to get up, to keep working, not to worry. The dangerous part is that if something really were to happen, no one would believe there was a problem. This has been happening for the past eight months.”
- “A problem that is ongoing is that the alarms are turned on and no one knows if it is a test, as they tell us, or a real alarm. About two months ago, a sewing machine on Module Two caught fire and the alarm didn’t sound.”

While the WRC did not observe the sounding of the alarm system during its onsite visit, the consistency of worker testimony indicates that the factory should review the system and make sure that it is working properly. If, in fact, the company is conducting a fire drill, then the workers should be asked to follow procedures established for the drill, including the evacuation of the factory. The fact that the alarm system is sounding on multiple occasions during a given week is, as the workers have noted, cause for concern given that in the event of a true emergency the workers will likely not take the necessary precautions.

The WRC also reviewed a July 11, 2016 fire safety analysis conducted by the local fire department. The WRC notes that the analysis made specific recommendations to the factory, including the use of antistatic mats below the electric panels to protect workers from electrical shock and to ensure that the representatives assigned to the factory’s fire safety brigade are easily identifiable by all workers.

The WRC finds that some improvements are needed in order for the factory to comply with Honduran regulations and, by extension, university codes of conduct.

Initial Recommendations

In order to comply with fire safety standards, the WRC recommended that DAH do the following:



- Review the alarm system to ensure that it is functioning and that the alarms do not sound unless a drill has been planned or in the event of an actual emergency.
- As per the recommendations issued by the local fire department, if it has not yet done so, the factory should install antistatic mats below the electrical panel and ensure that the members of the fire brigade are identifiable as such to all workers.

Company Response

DAH responded to the WRC's findings and recommendations that, formerly, there was an issue with the alarm system but that this issue had been corrected and that the factory has a new alarm system that does not cause this problem. Workers interviewed subsequently by the WRC confirmed that the alarm system is no longer malfunctioning. The company further stated that it was utilizing anti-static mats below the electric panels.

Current Recommendations

If, in fact, the company has installed the antistatic mats recommended by the fire brigade, the WRC will consider DAH to be in compliance with fire safety standards.

5. Unhygienic, Poorly Maintained Restrooms

Findings

Honduran health and safety regulations state that restroom facilities must include toilets with running water, toilet paper, and adequate waste disposal and that urinals and toilets must be maintained in a clean and sanitary manner.³⁷ The regulation also requires that faucets function properly and that toilet stalls and seats are suitable for use.³⁸

More than two thirds of the workers interviewed offsite by the WRC reported poor conditions in the factory's restroom facilities. Most commonly, the workers reported that the facilities are not maintained in a clean state and often smell bad. The workers reported that the factory does provide toilet paper and soap, but that when these supplies have been depleted in



³⁷ Id., Article 70.

³⁸ Id., Article 72.

the restroom, the factory does not restock them promptly. Other workers complained that the toilets are not always clean because the water pressure is insufficient to fully flush the toilet.



The workers reported that some of the restrooms are in a state of disrepair, including stalls without locks and broken tank lids. They reported that, for some of the toilets, the flush mechanism does not work and that the trash cans are small, and therefore overflowing, and do not have lids.

The WRC's onsite inspection found that, while the factory does have an adequate number of toilet stalls and sinks for the corresponding number of workers, many of the restroom facilities are, in fact, in need of repair, while others are unhygienic and require cleaning. Specific problems identified by the WRC during its onsite inspection of the restrooms include:

- Sink in women's restroom in Zone 1 is in need of repair;
- Sink in women's restroom in Zone 2 is in need of repair;
- Stalls in the men's restroom in Zone 1 do not have locks;
- Toilets in the men's restroom in Zone 1 are leaking water;
- None of the trash cans in any of the facilities have lids; and
- In all restrooms, many of the tank lids are broken and, in some cases, a piece of plastic is being used to cover the tank.

The conditions of the restrooms, including the company's failure to maintain the facilities in good working order, constitute a violation of Honduran health and safety standards and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that DAH take the following steps in order to comply with Honduran health and safety standards in the restroom facilities:

- Ensure that all restrooms are stocked with toilet paper and soap for the entire duration of the work shift.

- Repair all sinks, toilets, stalls, and tank covers.
- Maintain the restrooms in sanitary conditions, implementing a cleaning schedule that ensures that the restrooms are cleaned periodically throughout the workday.
- Ensure that all trashcans have lids (preferably that can be opened by foot in order to maintain good sanitation) and that trashcans are of adequate size to prevent overflow onto the floor of the restroom.

Company Response

In its response to the WRC, DAH reported that it “engages a janitorial staff to regularly clean its restroom facilities and will continue to monitor that cleaning regimen and make any improvements as necessary.” DAH further reported to the WRC that it had upgraded its restroom facilities during the current year. Workers interviewed by the WRC confirmed that the restroom facilities at the factory had improved significantly.



DAH made no mention of remediation with regard to the WRC’s recommendations to stock the restroom facilities with toilet paper and soap and to purchase and make use of trashcans with lids.

Current Recommendations

Workers have confirmed that cleanliness has improved significantly in the factory restrooms since the WRC contacted Delta. Given this, the WRC considers the upgrades and new cleanliness protocol to bring the factory into compliance with university codes of conduct with regard to these violations.

The WRC continues to recommend that the company stock the restroom facilities with toilet paper and soap at all times and that it purchase trash cans with lids.

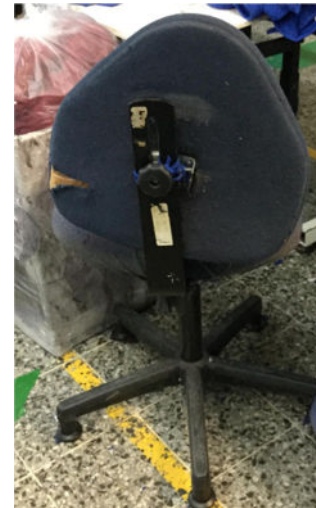
6. Ergonomics

Findings

Article 95(7) of the Honduran Labor Code requires that employers “adopt adequate measures to establish and maintain in their businesses the best conditions of workplace hygiene and safety measures.” For garment industry workers, ergonomics is an essential element of an effective health and safety program. Given the physical stress caused by the repetitive motions, rapid pace, and long shifts associated with garment manufacturing, attention to ergonomic conditions is crucial for reducing the incidence of permanent injuries to garment workers.



DAH's equipment, including chairs and mats, do not currently meet basic ergonomic standards. The chairs that are currently being used by workers lack some of



the necessary features required for ergonomic safety, including swivels, seat pan, height and back adjustment, and lumbar support.³⁹ During its visit to the factory, the WRC identified more than 60 chairs that do not meet the required ergonomic standards.

³⁹ The United States Department of Labor Occupational Safety & Health Administration (OSHA) provides a description of the appropriate chair for garment workers. This website also makes other recommendations on the proper ergonomic set up of a sewing machine worker's station, <https://www.osha.gov/SLTC/etools/sewing/sewingstationdesign.html>.

Workers reported multiple complaints with the regard to the quality of their chairs. For example, one worker reported, “My chair is in poor condition, it doesn’t go up or down. That is true of



most of the chairs. I asked for a change but they brought me another chair that was worse than the one I had.” Another worker said, “My chair goes up and down by itself. I have asked three times for it to be changed during the past two years, but I have never been given a new chair.”

The anti-fatigue mats that are provided to workers who work in a standing position are old and worn. The WRC counted more than 100 mats that were in poor condition. In recent interviews, workers reported to the WRC that DAH had, since the WRC’s visit to the factory, obtained new anti-fatigue mats but that the new mats are thin and do not provide comfort for those workers who spend the entire day in a standing position.

One worker reported to the WRC that the table at which he works from a standing position is not the correct height. This worker reported, “My work table for inspection is in good condition, but it is too short for me. Many months ago I asked for the table to be changed or to be raised since they can put some wood under the table to raise it to the correct height. But I was told that there wasn’t enough money to buy this wood. I suffer from constant back pain since I am always hunched over.”



Another worker who is positioned in a standing position reported the following:

I have a chair that one of my co-workers gave me because after my last pregnancy I have had pain in my feet and they become inflamed when I stand for too long. But my training manager told me that I can’t use this chair because this is a job that needs to be done from a standing position and that if I want to use this chair, I have to get a doctor’s note.

The failure of DAH to provide ergonomically sound equipment for its workers and to arrange workers’ stations in an ergonomically sound manner violate Honduran law and, by extension, university codes of conduct.

Initial Recommendations

In order to comply with Honduran law and internationally recognized ergonomic standards, the WRC recommended that DAH should:

- Supply production workers with ergonomically sound chairs that, in keeping with OSHA standards, are easily adjustable for height, seat tilt, and backrest position; have a padded back rest with rounded edges to support the lower back; do not have wheels or have locking wheels; have a gently sloped front edge to help prevent the chair's edge from pressing into the back of the legs; and have a cushioned/contoured seat which distributes the worker's weight so no body part gets all the pressure;
- Replace the existing mats for workers who perform their tasks in a standing position with new, high quality anti-fatigue mats; and
- Review the ergonomic environment and equipment in the entire factory, retaining an outside expert if necessary, and make any additional changes necessary to protect the health and safety of DAH workers.

Company Response

DAH reported to the WRC in response to its findings and recommendations related to ergonomics that it was aware of the problems and that it had replaced all of the factory's chairs with ergonomically sound chairs. The company provided documentary evidence to support this claim, including photos and receipts reflecting the purchase of new chairs.

DAH disagreed with the WRC's finding that the existing anti-fatigue mats do not meet ergonomic standards, but welcomed employees with specific complaints to bring them to the attention of management.



In interviews conducted in April 2018, DAH workers reported to the WRC that the company did purchase approximately 500 chairs for the use of sewing machine operators and that it began to distribute the chairs to some workers. After the workers complained to management that the chairs were not comfortable and that they were easily broken, the workers reported that management discontinued distribution of the chairs. According to the workers, many of the newly purchased chairs were never distributed to workers and are currently being stored in the factory warehouse. Workers estimate that approximately 250 chairs being used at the factory are inadequate to meet the required ergonomic standards.

Current Recommendations

Given the testimony provided by workers, the WRC maintains its initial recommendations with regard to ergonomics at DAH.

7. Lockers

Findings

The Honduran occupational health and safety regulation requires employers to provide each employee with an individual locker, with a key, in which to store his or her personal belongings.⁴⁰

On the day of the WRC's visit to the factory, the WRC counted a total of 774 lockers available for workers to store their personal belongings. Additionally, many of the existing lockers were in poor condition. The area in which the lockers are located is very small in size. Given that all workers access the lockers at approximately the same time in the morning and the afternoon, workers expressed concern that accidents could result from a large number of workers being crowded into a relatively small physical space.



Workers interviewed by the WRC gave varying reports as to the availability of a locker for their use. Some of the workers reported having an individual locker while others have no locker available for their use. Some of the workers interviewed reported sharing a locker with as many as three other workers. Workers reported the following with regard to locker use:

- “Many of my co-workers put their things up above the lockers because they don’t have a place to store their belongings. Sometimes our things get lost so I prefer to keep my wallet with me.”

⁴⁰ Id., Article 69(2).

- “I don’t use a locker because there is a lot of paperwork required to be assigned a locker. You have to go to human resources and it takes a lot of time. I wouldn’t want to share a locker because it’s a question of privacy and intimacy.”
- “The area where the lockers are located is very small and it is difficult to walk through. Sometimes, when we are all there at one time, you feel like the lockers are going to fall on top of us and cause an accident. Since I don’t have a locker, I have to take my things home every day and bring them back the next day. If I forget to bring my [personal protective equipment], I have to ask for a replacement and then I am charged for this.”
- “My co-worker lost her purse because she didn’t have an assigned locker and so she left her belongings on top of the lockers. It’s not the first time that someone has lost her belongings.”

Given that Honduran law specifically requires the employer to provide a locker to each worker in which he or she is able to store personal belongings and given that the number of employees at DAH far exceeds the number 774, DAH is in violation of this regulation and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that DAH install additional lockers at the factory so that each worker is provided his or her own locker in which to store personal belongings. All existing lockers should be reviewed for repair and replaced if necessary. Once installed, DAH should reach out to each worker in order to assign him or her an individual locker. This process should be carried out at the initiative of factory management and should not be the responsibility of the workers. As the additional lockers are installed, DAH should ensure that the space for the lockers is sufficient for all workers to safely access their lockers.

Company Response

In response to the WRC’s findings and recommendations, DAH stated that it had received no complaints from workers about the lack of lockers and condition of lockers, but committed to evaluate a plan to increase the number of lockers available to its employees and to make these lockers available to workers by January 2018.

Workers interviewed by the WRC in April 2018 reported that the company had repaired and repainted the factory’s existing lockers. However, the workers reported that the factory did not, despite its commitment to the WRC to do so, install additional lockers beyond the existing 774 lockers.

Current Recommendations

The WRC views as positive the fact that the company has made repairs to the existing lockers. However, DAH is failing to comply with the law by supplying each of its employees with his or

her own locker. Therefore, the WRC continues to recommend that the company install additional lockers so that each worker is provided a locker in which to store personal belongings.

8. Personal Protective Equipment

Findings

The Honduran occupational health and safety regulation requires the employer to provide personal protective equipment to its workers free of charge.⁴¹ The equipment necessary in a given workplace is to be determined based on the occupational safety needs at the workplace and for each of the positions therein.

Furthermore, the employer is required to periodically review the needs for equipment and ensure that the workers are making use of the required personal protective equipment.⁴² The law also requires the use of respiratory masks with a mechanical filter in workplaces where there is particulate material.⁴³



Workers reported, and the WRC observed, that workers are given a simple facemask that does not adequately filter particles as required for workers in the garment industry. The masks currently being distributed at DAH have only one strap and do not provide a close seal around the worker's face. While Honduran law does not provide mask specifications, the United States National Institute for Occupational Safety and Health (NIOSH) recommends specific particulate filtering face piece respirators appropriate for this work environment.⁴⁴



Workers consistently reported to the WRC that the company does not provide a mask or require its use and that they have to ask for a facemask if they want to use one. Workers provided the following testimony:

- “They don’t give us face masks, we have to ask for them. They used to provide one box of masks per team, but now it is one box for every two teams. The masks are not good quality and they open on the sides and so the dust goes in our mouth and nose. They are very thin.”
- “They don’t give out too many masks. You have to go and ask for one.”

⁴¹ Id., Article 9(f).

⁴² Id., Article 107.

⁴³ Id., Article 298.

⁴⁴ Center for Disease Controls, “NIOSH-Approved N95 Particulate Filtering Facepiece Respirators,” updated September 9, 2014, http://www.cdc.gov/niosh/npptl/topics/respirators/disp_part/n95list1.html.

- “The mask is not of good quality, it opens on the sides. I need two masks per day.”

The factory’s failure to provide the appropriate facemasks to its workers and to require their use is a violation of Honduran health and safety standards and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that, in order to comply with the Honduran health and safety regulation, DAH purchase and supply all workers with the appropriate, NIOSH-approved face piece. Workers should be trained on the care and use of the masks and on the importance of using the mask to protect their health. Masks should be replaced, free of charge, as necessary, based on the regular wear and tear of the mask.

Company Response

DAH responded to the WRC’s findings and recommendations stating that it did not agree that the facemask available to workers was inadequate and that the facemask that the company is currently providing “meets applicable requirements.” However, the factory stated that it would be willing to discuss potential alternatives with members of the SITRADAHSA union.

Current Recommendations

The WRC continues to recommend that NIOSH-approved personal protective equipment be made available to workers. This equipment should be provided to workers free of charge and replaced when necessary. As noted in the initial recommendations, the workers should be trained on the proper handling and use of the equipment. While the WRC encourages the factory to communicate with worker representatives about changes to the personal protective equipment supplied to workers, it cannot base its decision to comply with this requirement under the assumption that the union will be able to propose equipment that meets the required standards.

9. Failure to Maintain a Properly Functioning Health and Safety Committee

Findings

Article 412 of the Honduran Labor Code requires that any workplace with more than 10 employees must establish a Health and Safety Commission [Committee], “made up of an equal number of employer and worker representatives in order to investigate the causes of professional risks, propose measures to prevent them, and ensure compliance with these measures.”

The Health and Safety Committee is also charged with informing workers about safety risks in the workplace, preventative measures that the company and the committee are taking to counter these risks, and proper work methods.⁴⁵

⁴⁵ Honduran Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness, Executive

This law also states that, for a company with more than 1,000 employees, the committee must have 10 members, five of whom are representatives of management and five of whom are representatives of the workforce.⁴⁶

Eight of the 21 workers interviewed offsite by the WRC, when asked about the work of this committee, said either that no such committee existed or that they did not know whether or not the committee existed. Another seven workers who said that they were aware that such a committee existed stated that they had no knowledge of what the committee discussed or decisions that were made. Some of their specific comments include the following:

- “There is a committee and each team has a representative. The representatives were chosen by the supervisor.”
- “There is a committee and 10 people participate. I don’t know when they meet or what they talk about.”

A review of documents during the WRC’s onsite inspection confirmed that the factory has convened meetings of the Health and Safety Committee. Worker testimony also confirms that a health and safety committee does exist at DAH. However, some workers are unaware of the committee’s existence and most of the workers interviewed are unaware of the work that it undertakes. Therefore, the company is in violation of the Honduran Labor Code and its health and safety regulation and, by extension, university codes of conduct.

Initial Recommendations

The WRC recommended that DAH ensure that the Health and Safety Committee meet regularly in order to carry out all of the educational, oversight, and reporting functions required by law. The committee should keep minutes of the items discussed during its meetings and these minutes should be posted in an area that is visible to all workers.

Company Response

DAH stated, in its response, that the Health and Safety Committee does meet on a regular basis, though it did not provide any specific information on the frequency of the meetings that are being held. The company committed to posting the minutes of the committee’s meetings so that all employees will have a way in which to be informed of the activities of the committee.

Current Recommendations

Given the worker testimony outlined in the initial findings in this report related to the general lack of awareness about the work of the committee, the WRC recommends that the company make every effort to address the fact that many of its workers are not aware of the issues

Agreement Number STSS-053-04, Article 37, October 19, 2004.

⁴⁶ Id., Article 14.

addressed by the committee or the decisions that are reached. The posting of the committee meeting minutes is an appropriate first step and the factory should consider additional ways in which information can be shared to raise awareness among workers about the work of the committee, such as informational sessions and announcements via the company's public address system.

IV. Licensee Response

The WRC has contacted a number of licensees sourcing from DAH in an effort to press for full remediation. As noted above, in this case, the factory's parent company, Delta, also owns the licensee MJ Soffe; the WRC began by engaging Delta directly. When, as reflected above, Delta failed to commit to full remediation, the WRC contacted other licensees sourcing from the facility, requesting that they work with the factory to ensure that the documented violations be fully remedied in accordance with collegiate codes of conduct.

In October 2017, the WRC contacted J America (Vetta Brands), The Game and American Threads (MV Sport), New Agenda, Image Source, and VF Imagewear, which had disclosed the factory prior to exiting the collegiate market.

Vetta Brands (owner of J America) and MV Sport (owner of The Game and American Threads) informed the WRC that they would work collaboratively in responding to the WRC's findings and recommendations; VF informed the WRC that it would also be a part of this collaboration despite the fact that it had discontinued its sale of collegiate licensed apparel.⁴⁷ VF subsequently reported that it was no longer doing business with this facility, but was still doing business with other Delta facilities and would use its leverage with the company to press for remediation.

In November, these firms informed the WRC that they had contacted Delta Apparel and also the Fair Labor Association to enlist the FLA's support in the development of a corrective action plan. In December 2017, according to the union, the FLA contacted the SITRADAHSA union and encouraged the union to file a third-party complaint, which the union did. At the time of the publication of this report, the licensees and the FLA website reported that the complaint, filed on December 21, 2017, was being investigated.⁴⁸

Despite repeated requests from the WRC, these licensees have not shared any information as to specific remediation commitments or actions, more than six months after they were first contacted by the WRC.

While licensees may, of course, consult any third party, including the FLA, regarding their remediation efforts, their decision to seek the FLA's guidance and support does not eliminate their obligation to promptly address violations already in evidence. Failure to provide, for such

⁴⁷ In April 2017, after the WRC initiated its investigation, VF Corporation announced the sale of its licensed brand, Majestic, to Fanatics. See the VF Corporation, "VF Corporation Enters into Definitive Agreement to Sell Its Licensed Sports Group Business to Fanatics, Inc.," April 4, 2017, <https://www.vfc.com/news/press-releases/detail/1621/vf-corporation-enters-into-definitive-agreement-to-sell-its>. Fanatics does not disclose DAH.

⁴⁸ Fair Labor Association (FLA), Third Party Complaint Tracking Chart, <http://www.fairlabor.org/third-party-complaint-tracking-chart>.

an extended period of time, any concrete indication as to what steps will be taken is inconsistent with these licensees' obligations under university codes.

Image Source and New Agenda also did not commit to any meaningful action. Image Source initially responded to the WRC's communication by stating that it had no knowledge of the information provided by the WRC and believed that it had been contacted in error. The WRC explained the source of the information linking the company to DAH,⁴⁹ but, despite repeated communications, the WRC received no further response from Image Source.

In its response, Perrin Wear (owner of New Agenda) reported that it had spoken with Delta representatives, who confirmed that DAH had taken the limited remedial actions outlined in this report. Perrin Wear reported that a summary of its conversation with Delta representatives did not "validate nor contradict" the WRC's findings. Perrin Wear did not commit to take any further action to press for full remediation.⁵⁰

As described above, while DAH has taken some positive steps, it has refused to remedy a significant portion of the violations documented by the WRC. Delta itself, which owns a university licensee sourcing from the facility, has failed to properly address these violations. The other licensees sourcing from the facility have failed to press their supplier to do so. All of the licensees are in breach of universities' requirements that they prevent violations of university codes in their supply chains and that they promptly and fully remedy any violations that occur. To come back into compliance with their obligations to their university licensors, the licensees must ensure full remediation of the outstanding labor rights violations at this facility.

⁴⁹ Image Source is disclosed for the production of university-licensed apparel by IMG College Licensing.

⁵⁰ Email from Mitch Heiman, President and CEO of Perrin, Inc., to the WRC, October 27, 2017.