

individual complainants will be advised that after conciliation efforts by the commissioner have failed, the party should consult private counsel to initiate private litigation. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

#### Article 16.—RECORDS AND RETENTION

**49-16-1. Wages and wage rates.** Retain all records including personal identifying information including name, age, address and gender. Record regular rate of pay and hourly rate when overtime hours are worked. Record total overtime excess compensation. Record total wages paid. Date of payment and pay period covered. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-2. Posting of notice.** Every employer shall post the notice prescribed by the commissioner in a conspicuous place in every establishment where such employees are employed so they may readily observe the copy on the way to or from place of employment. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-3. Preserve for two years.** From last date of entry, all those payroll or other records containing the payroll information and data concerning wages and wage rates, payment in kind and any other benefits and copies of collective bargaining agreements, plans, trusts, employment contracts, that provide pay benefits that are in addition to the regular rate of pay. (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971.)

**49-16-4.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 17.—CONSTRUCTION OF RULES AND REGULATIONS

**49-17-1.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 18.—AVAILABILITY OF RULES AND REGULATIONS

**49-18-1.** (Authorized by K.S.A. 1970 Supp. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 19.—ADOPTION, AMENDMENT AND RESCISSION

**49-19-1.** (Authorized by K.S.A. 44-1104; effective, E-70-43, Sept. 23, 1970; effective Jan. 1, 1971; revoked May 1, 1979.)

#### Article 20.—WAGE PAYMENTS AND PROCEDURES FOR ENFORCEMENT

**49-20-1. Definitions.** (a) Authorized deductions, "accruing to the benefit of the employee", as used in K.S.A. 44-319(a)(3), shall mean deductions from an employee's pay for which the employer has received a signed authorization from the employee for lawful deductions that do not in any way waive, set aside or contravene any rights created in K.S.A. 44-313 *et seq.*, as amended.

(1) Authorized deductions shall include:

(A) Contributions to and recovery of overpayments under employee welfare and pension plans;

(B) contributions made under a collective bargaining agreement to employee welfare and pension plans that are not subject to the federal welfare and pension plans disclosure act. Such plans include, but are not limited to, group insurance plans, hospitalization insurance, life insurance plans approved by the Kansas commissioner of insurance, group hospitalization and medical service programs offered by nonprofit hospitalization and medical service organizations, and group medical insurance plans;

(C) deductions authorized in writing by employees or deduction by employers under a collective bargaining agreement for payments into:

(i) Company-operated thrift plans; or

(ii) stock option or stock purchase plans to buy securities of the employing or an affiliated corporation at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter;

(D) deductions by employers for payment into employee personal savings accounts. Such payments include, but are not limited to, payments into credit unions, savings fund societies, savings and loan associations, building and loan associations, savings departments of banks for Christmas, vacations or other purposes, and payments for United States government bonds;

(E) contributions by the employee for charitable purposes;

(F) contributions to labor organizations for

purposes of dues, assessments, initiation fees and other charges; and

(G) the actual cost to the employer of meals and lodging obtained from the employer, if the cost is not wages earned.

(2) The following deductions shall not be considered authorized deductions "accruing to the benefit of the employee" within the meaning of K.S.A. 44-319(a)(3):

(A) Deductions made for cash and inventory shortages; breakage; returned checks or bad credit card sales; losses to employers resulting from burglaries, robberies, or alleged negligent acts.

(B) deductions made for uniforms, special tools or special equipment which are not necessary to the performance of the assigned duties and are customarily supplied by the employer;

(C) any other deduction not set out by K.S.A. 44-313 *et seq.* or permitted by these rules and regulations.

(3) The following deductions shall not require written authorization by the employee as provided by K.S.A. 44-319(a)(3):

(A) Deductions which the employer is required or empowered to make:

(i) By state or federal law; or

(ii) by court order lawfully issued, to the extent permitted by that law (K.S.A. 44-319(a)(1));

(B) deductions for medical, surgical, or hospital care and services paid for by the employer which are without any financial benefit to the employer and which are duly recorded in accounts maintained by the employer (K.S.A. 44-319(a)(2));

(C) deductions made to correct wage overpayments resulting from employer error when the error alone has resulted in the overpayment. However, if the deduction rate is to exceed the overpayment rate, the employer shall be required to obtain signed authorization of the employee before making any such deduction;

(D) deduction for cash advances made upon the written request or by signed agreement of the employee and made as part payment of future wages to be earned;

(E) deduction for excess cash expense allowances or advances made to the employee which are not justified by expense receipts returned to the employer, to the extent of any unexpended cash expense advances not returned to the employer.

(b) "Plan of payment," as used in K.S.A. 44-314, shall mean a method agreed to in advance by

an employee in which the employer makes bank deposits for the employee on or before the regular payday in an amount equal to the payroll amount, plus any additional amount required by the depository as a service charge, upon which the employee may draw an amount equivalent to the employee's wages less authorized deductions. Under such a plan of payment, the employer shall give a statement of earnings to the employee and the bank shall provide one free check to the employee.

(c) "Binding settlement agreement," as contemplated by K.S.A. 44-316(b), shall mean an agreement approved by the secretary of human resources or the secretary's authorized representative either prior to or subsequent to an administrative hearing conducted pursuant to K.S.A. 44-322a. Once an appeal from an administrative order has been filed with the district court pursuant to K.S.A. 60-2101, and prior to court decision, any binding settlement agreement between the parties, as defined herein shall be valid only if approved by the hearing officer or that officer's authorized representative.

(d) "Or other basis," within the meaning of K.S.A. 44-313(c), shall include all agreed compensation for services for which the conditions required for entitlement, eligibility, accrual or earning have been met by the employee. Such compensation may include, but is not limited to, profit sharing, fringe benefits, or compensation due as a result of services performed under an employment contract that has a wage rate required or implied by state or federal law. Conditions subsequent to such entitlement, eligibility, accrual or earning resulting in a forfeiture or loss of such earned wage shall be ineffective and unenforceable.

(e) "Allowed or permitted to work", within the meaning of K.S.A. 44-313(b), shall not include an independent contractor, as defined by rules, regulations, and interpretations of the United States secretary of labor for the purposes of the fair labor standards act. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-313 to 44-315, 44-316 to 44-321, 44-322, 44-322a, 44-323, 44-324, 44-325, 44-326; effective, E-73-23, July 7, 1973; amended, E-73-29, Sept. 28, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

**49-20-2.** (Authorized by K.S.A. 44-319, 44-321, K.S.A. 1977 Supp. 44-313, 44-325; effective,