

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 14

DATE:

June 19, 2012

RECOMMENDATION

ACTION REQUESTED

Approval of the employment agreement for Head Women's Basketball Coach, Salvatore Verdi.

STAFF SUMMARY

Coach Verdi's contract is for a term of five years. Pursuant to Board Policy 3.1.1.2, employment agreements in excess of three years must be approved by the Board of Regents.

FISCAL IMPLICATIONS

Yes, including

- Annual base compensation of \$165,000;
- \$5,000 for radio show appearance;
- \$500 per month automobile stipend; and
- standard fringe benefits and incentives. (See attached.)

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.

University Executive Officer
Gloria A. Hage
General Counsel

6.19.12

Date

EASTERN MICHIGAN UNIVERSITY

ATHLETIC COACH EMPLOYMENT AGREEMENT

This Employment Agreement made this 26th day of April, 2012, by and between the Board of Regents of Eastern Michigan University (hereinafter the "University") of Ypsilanti, Michigan and Salvatore P. Verdi (hereinafter the "Employee"). It is subject to the approval of the Board of Regents.

RECITALS

A. University needs the services of an athletic coach to coach University's varsity Women's Basketball team; and

B. Employee represents that he meets University's qualifications for the position and is available for employment in this capacity by University.

TERMS

In consideration of the mutual covenants, promises and conditions in this Contract, University and Employee agree as follows:

1.0 Employment

1.1 Subject to the conditions stated in this Agreement, University employs Employee as Head Women's Basketball Coach at University, and Employee agrees to and accepts the terms and conditions for employment outlined in this Agreement.

1.2 Employee shall work under the immediate supervision of the Athletic Director of University ("Athletic Director") or the Director's designee, and shall confer with the Director on all matters requiring administrative and technical decisions. Employee shall be under the general supervision of the President of the University. Athletic Director shall annually conduct a performance evaluation of Employee, which shall be reduced to writing and placed in Employee's personnel file. Employee will be eligible for a Base Salary increase, usually effective July 1 of each year, consistent with the University's program of annual salary adjustments for employees in his classification.

1.3 Employee shall manage and supervise the University's Women's Basketball Team ("Team"), and perform such other duties in the intercollegiate athletic program of University as may be assigned. University reserves the right to reassign Employee to duties other than as head coach of the Team, while retaining the salaries and benefits stated herein, so long as the duties to which he is assigned are consistent with his education, skills, and experience.

2.0 Term.

2.1 Employee's appointment as Head Women's Basketball Coach shall commence on April 26, 2012 and continue for a period of five (5) years until April 25, 2017, unless sooner terminated as provided for herein.

2.2 Each season the Team wins 20 games, the term of this Agreement shall automatically be extended by one year.

2.3 This employment in no way grants Employee a claim to tenure in employment, or any years of employment attributable to tenure within University.

3.0 Compensation.

3.1 In consideration for Employee's faithful, diligent, and successful performance of the services set forth in this Agreement, the University agrees to provide the following salary and fringe benefits to Employee during the term of this Agreement.

3.1.1 Salary. University shall pay Employee an annual Base Salary of \$165,000, paid pursuant to the normal university payroll procedures (currently semi-monthly) in full payment for the satisfactory performance of all duties required under this Agreement, less any applicable state and federal tax deductions or deductions authorized in writing by Employee.

3.1.2 The University agrees to make all necessary arrangements, including financial, for a radio show during the term of this Agreement. For his appearance on this radio show, Employee shall be annually paid \$5,000, less applicable withholding.

3.1.3 Fringe Benefits. University shall provide Employee with the same fringe and other benefits (e.g. health insurance, vacation, sick, etc.), as may be amended from time to time, as provided to non-bargained for administrative employees.

3.1.4 University shall provide the Employee with a monthly stipend up to \$500 per month for an automobile (which would be deducted from the Women's Basketball operating budget). Employee shall use the automobile for the purpose of conducting University business. Upon termination of this Agreement, Employee shall immediately return the automobile to the local dealer. University shall provide assistant coaches with a monthly stipend up to \$350 per month for an automobile, under the same terms and conditions as Employee.

3.1.5 Incentives. During the term of this Agreement Employee shall be entitled to receive each of the following bonuses and incentives. (each of which shall be treated separately). All amounts

are gross and will be less applicable withholding.

- A. Each season that the Team is champion or co-champion of its Mid American Conference (MAC) Division, University shall pay Employee a bonus of \$5,000.
- B. Each season the Team is the MAC Regular Season Champion or the MAC Tournament champion, University shall pay Employee a bonus of \$7,500. If Team wins both, University shall pay a single bonus in the amount of \$12,500.
- C. Each season the Team receives an at-large invitation to compete in the National Collegiate Athletic Association (NCAA) Tournament, University shall pay Employee a bonus of \$7,500.
- D. University shall pay Employee a bonus of \$7,500 for each win by Team in the NCAA Tournament.
- E. Each season that the Team receives an invitation to the Post Season Women's National Invitation Tournament (WNIT), the University shall pay Employee a bonus of \$5,000.
- F. University shall pay Employee a bonus of \$2,500 for each win by the Team in the WNIT Tournament.
- G. Each season Employee is named "Coach of the Year" in the Mid-American Conference, the University shall pay Employee a bonus of \$5,000.
- H. Each season Employee is named National Coach of the Year by the Associated Press, ESPN, CBS and/or Fox Sports, University shall pay Employee a bonus of \$15,000.
- I. Each season the University determines that paid attendance for home Women's basketball games averages between 3,000 and 3,999, University shall pay Employee a bonus of \$15,000. Each season the University determines that paid attendance for home Women's basketball games averages between 4,000 and 4,999, University shall pay Employee a bonus of \$20,000. Each season the University determines that paid attendance for home Women's basketball games averages between 5,000 and 5,999, University shall pay Employee a bonus of \$25,000. Each season the University determines that paid attendance for home Women's basketball games averages 6,000 or more, University shall pay Employee a bonus of \$35,000.

- J. Each season the Team finishes in the top four (top 4 seed) of the Mid-American Conference, the University shall pay employee a bonus of \$2,500.
- K. Each season the Team is ranked in the Top 25 of AP or ESPN Coaches poll at any time during the season, the University shall pay a bonus of \$2,500. This bonus is payable only one time per season.
- L. Each season the team is ranked in the Top 10 of ESPN mid-major poll at any time during the season, the University shall pay a bonus of \$5,000.

Bonuses for the achievements set forth in this Section 3.1.4 shall be paid on or before May 1 of each year of this Agreement.

3.1.6 Tickets. University shall annually provide Employee, without charge, up to ten (10) reserve tickets to each home Women's basketball game, up to four (4) tickets to each home football game and up to four (4) reserve tickets to each Men's basketball game. University shall annually provide assistant coaches, without charge, up to six (6) reserve tickets, and as many recruiting tickets as necessary, to each home Women's basketball game.

3.1.7 Final Four Tickets. To the extent eight or more tickets are made available to the University for the NCAA Tournament Women's Basketball Semi-Final and Championship games, University shall provide Employee, at a charge to Employee of their face value, four (4) tickets to the NCAA Tournament Women's Basketball Semi-Final and Championship games.

3.1.8 Moving Expenses. University shall reimburse Employee up to \$10,000 for documented moving expenses related to Employee and his family relocation to Michigan. Employee will be eligible for reimbursement only for documented expenses that are submitted within 12 months of the commencement of employment. University shall reimburse assistant coaches up to \$3,000 each, subject to the same conditions.

3.1.9 Temporary Housing. University will provide Employee with up to six months rent free housing at University's Westview Apartments. The value of this housing will be included on Employee's W-2 tax form for the applicable year. University will provide assistant coaches with up to two months rent free housing at University's Westview Apartments. The value of the housing will be included on assistant's W-2 tax form for the applicable year.

3.1.10 University shall provide Employee and Program staff with appropriate computer support and video editing equipment, as provided to other similarly situated employees.

4.0 Employee's Duties.

4.1 In consideration of the annual salary and other benefits, Employee promises and agrees as follows:

4.1.1 Faithfully and conscientiously perform all duties related to the establishment, direction and development of an educationally sound and competitive athletic program, and to perform all duties prescribed herein and assigned by University's Board of Regents, President, Athletic Director, and Assistant Athletic Director within the budget allocated.

4.1.2 Plan, direct, and implement all phases of a varsity intercollegiate athletic program, including recruitment of academically and athletically qualified students, developing competitive schedules, budget preparation and supervision for programs, conduct practice sessions, conditioning programs, clinics, public relations activities, and fund raising. Attendance is expected at staff meetings, community events, and other appropriate athletic activities.

4.1.3 Devote full-time, attention, and energy to the duties of head coach as required herein, to the promotion of the University's Athletic program; and to avoid any business or professional activities or pursuits that would prevent Employee from devoting full time to performance of the duties under this Agreement, or that would embarrass University or detract in any manner from the duties outlined herein;

4.1.4 Know, recognize and comply with the laws, policies, rules, and regulations governing University and its employees ("University Rules"), the rules of the National Collegiate Athletic Association (or any successor association) and its applicable divisions (including, without limitation, the Constitution and By-Laws of the NCAA) ("the NCAA rules"), and the rules of the Mid American Conference, or any successor conference ("Conference Rules"), in each case as in effect and interpreted by the applicable body from time to time (the University Rules, the NCAA rules, and the Conference Rules are hereinafter sometimes referred to collectively as the "Governing Rules"), to supervise and ensure that the assistant coaches and any other employees for which Employee is administratively responsible comply with the Governing Rules and to immediately advise the Athletic Director if Employee becomes aware of or has cause to believe violations have occurred or will occur. Coach will also use his best efforts to ensure student-athlete compliance with the Governing Rules. The Employee will cooperate fully with the University efforts to establish, educate, investigate and enforce these Governing Rules. The University agrees that it will provide relevant updates and training to Employee and his staff regarding NCAA rules.

4.1.5 If the Employee is determined by the NCAA, the Conference, or the University to have committed a violation of the Governing Rules, whether while employed by the University or during prior employment at another NCAA member institution, the Employee may be subject to disciplinary or corrective action as set forth in the applicable provisions of the above-referenced rules and/or this Agreement. Further, if Employee is determined by the NCAA, the Conference or the University to have committed or been aware of and not reported a major violation of the Governing Rules, or to have intentionally and knowingly committed any other type of violation of Governing Rules, or committed repeated violations of Governing Rules, whether while employed by the University or at another NCAA member institution, the employment of employee may be terminated as provided in Sections 6.0 and 6.1.4 of this Agreement. Further, if it is determined by the NCAA, the Conference, or the University that a major violation of the Governing rules has been committed in the Women's Basketball Program during the term of this Agreement, the Employee's employment may be terminated as provided in Section 6.0 and 6.1.4 of this Agreement.

4.1.6 Develop programs and procedures with respect to the evaluation, recruitment, training, and coaching of student athletes to compete successfully while assuring the welfare of student athletes;

4.1.7 Observe and uphold all academic standards, requirements, and policies of University;

4.1.8 Encourage student athletes to perform to their highest academic potential, obtain the highest grades possible and graduate.

4.2 It is further agreed that Employee will not receive outside compensation (including but not limited to income, annuities, sports camps, housing benefits, complimentary ticket sales, television and radio programs, and endorsement or consultation contracts with athletic footwear, apparel or equipment manufacturers) without prior written consent of the President, or Athletic Director, which consent shall not be unreasonably withheld and shall disclose to University all outside compensation Employee receives and the source of such compensation. Reports regarding outside compensation must be made on an annual basis in conjunction with the annual performance evaluation. The document must include information concerning athletically related outside income for the previous contract period.

4.3 Employee shall maximize radio and television coverage favorable to University, but shall receive remuneration for such appearances, for any endorsements, or public presentations only upon securing prior written consent as noted in Section 4.2, or as otherwise compensated by the University as contained in Section 3.1.2 of this Agreement.

4.4 Summer Camps. Employee shall have the right to operate a summer women's basketball camp, in accordance with the policies and

practices of the University for the operation of camps, which are subject to amendment. Employee may use the University trademark to promote the camp. Employee shall operate the camp as an independent contractor and not as an employee of EMU. Employee shall reimburse the University for use of the Rec IM Building, Dining Facilities and Residence Halls. Employees must procure insurance for all liabilities related to the camp and must practice sound accounting principles in their management of the camp. Priority for scheduling is determined by the University.

5.0 Travel.

Employee shall conduct such travel within the allotted budget as is necessary to carry out duties as Head Women's Basketball coach, and Employee shall be entitled to reimbursement for transportation and per diem expenses at the rate provided to non-represented administrative employees. University will reimburse Employee for travel for his spouse and children, one time annually, to the NCAA Tournament, if Team receives a bid (automatic or invitation) to the Tournament and spouse and children travel to watch the Team. The value of this reimbursement will be included on Employee's W-2 tax form for the applicable year.

University agrees to reimburse Employee and assistant coaches for reasonable travel and related expenses to attend the NCAA Women's Semi-Final and Championship games and the WBCA annual convention in accordance with policies and procedures related to University employee travel.

6.0 Termination for Just Cause.

6.1 University has the right to terminate this Agreement for Just Cause, in which case prior to termination but subject to the provisions concerning suspension, Employee shall be given notice and an opportunity to be heard. In addition to its meaning in University documents related to faculty, and its normally understood meaning, the term "just cause" shall be understood to include, but not be limited to, all of the following:

6.1.1 A deliberate or serious violation of the duties set forth in this Agreement or refusal or unwillingness to perform such duties in good faith and to the best of Employee's abilities, which includes in addition to the usual and customary coaching activities, recruiting, assisting duly authorized alumni, booster club and University Development Foundation activities and cooperating with the news media;

6.1.2 A violation by Employee of any of the other terms and conditions of this Agreement not remedied after fifteen (15) days written notice thereof to Employee;

6.1.3 Any conduct of Employee that constitutes moral turpitude, or which would bring public disrespect, contempt, or ridicule upon University, or failure to follow the high moral and ethical standards commonly expected of Employee as a leading representative of the Department of Intercollegiate Athletics at University;

6.1.4 A determination by the NCAA, the Mid-American Conference (MAC), or the University that the Employee has committed a major violation of the Governing Rules, has intentionally committed any other type of violation of the Governing Rules pursuant to Sections 4.1.4 and 4.1.5 of this Agreement, or that a major violation of Governing rules has occurred within the Women's Basketball Program during the term of this Agreement.

6.1.5 Failure to positively represent University and University's athletic programs in private and public forums.

6.1.6 Engaging in criminal activity, or misuse of University funds or resources; and

6.1.7 Any conduct which violates the rights of student athletes as conferred by law or by the Governing Rules.

6.2 The Athletic Director shall have administrative authority to immediately suspend Employee on a pre-hearing basis from performance of some or all duties with or without salary payments permanently or temporarily for a period of up to one month without termination of this Agreement for cause set forth in this Section 6.0.

6.2.1 Employee shall have the procedural right, upon written request, for a review and hearing relative to any such suspension ordered by the Athletic Director. Any such hearing shall be governed by the normal University's grievance procedures provided for non-academic administrative employees, as now or hereafter amended, unless other procedures are agreed upon by the parties in lieu thereof.

6.3 Termination of this Agreement by University may occur only by decision of the President or his/her designee after five (5) days prior written notice of the charges against Employee and an opportunity for Employee to present evidence. Employee may seek/obtain the assistance of an attorney to aid in the production of evidence; however, such attorney may not actively participate in the proceeding.

6.4 In the event University terminates this Agreement for just cause prior to the end of this Agreement, all obligations of University to make further payments and/or to provide other consideration hereunder shall cease on the termination date specified in the notice of termination.

6.5 In no case shall University be liable to Employee for any liquidated damages, or loss of any collateral business opportunities or any other benefits, or income from any other sources.

7.0 Termination Without Cause.

7.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Employee dies or becomes totally or permanently disabled as defined, by University benefit programs, if applicable. Any such termination shall not be reason for payment of any liquidated damages set forth below. Employee will, however, receive all benefits to which he would otherwise be entitled as a result of such death or disability.

7.2 At any time after commencement of this Agreement, University may terminate this Agreement without cause by giving written notice to Employee.

7.2.1 In the event University terminates this Agreement without cause, University shall pay to Employee, as liquidated damages, an amount equal to twelve (12) months of Employee's annual Base Salary as specified in Section 3.1.1 or the remaining portion of the salary amount which would have been due Employee from the date of early termination of the Agreement through the Agreement expiration date, whichever is less, to be paid at University's option in one lump sum or on a monthly basis prorated over the remainder of the term of the Agreement. Acceptance of this amount will constitute full settlement of any claim that Employee has or may have against University and any and all of its related entities, their regents, directors, officers, employees and agents. University's obligation in the event of a termination without cause will be limited to the amount set forth in this paragraph. University shall not be liable for any opportunities or any other compensation, benefits, income, or any amounts from any sources that might ensue as a result of University's termination of this Agreement without cause.

7.2.2 The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that Employee may lose certain benefits, supplemental compensation or outside compensation relating to his employment at University, which damages are extremely difficult to determine with certainty, or fairly or adequately. The parties further agree that payment of such liquidated damages by University and acceptance thereof by Employee shall constitute adequate and reasonable compensation to Employee for damages and injury suffered because of such termination by University. The foregoing shall not be, nor be construed to be, a penalty.

7.2.3 Notwithstanding the liquidated damages provisions, Employee agrees to mitigate University's obligations to pay liquidated damages by making reasonable and diligent efforts to obtain employment.

After Employee obtains such new employment, University's financial obligations under this Agreement, including liquidated damages, shall be offset by the amount of the salary obtained in his new employment.

7.3 Employee recognizes that the promise to work for University for the entire term of this Agreement is of the essence of this Agreement. Employee also recognizes that University is making a highly valuable investment in Employee's employment by entering into this Agreement and that University's investment would be lost if Employee were to resign or otherwise terminate employment with University before the end of the contract term. Nonetheless, it is agreed that at any time after commencement of this Agreement, Employee may terminate this Agreement by giving written notice to University.

7.3.1 In the event Employee terminates this Agreement without cause, Employee or a third party shall pay to University, as liquidated damages, an amount equal to six (6) months of Employee's annual salary, to be paid within thirty (30) days after the effective date of termination. University shall not be liable for the loss of any collateral business opportunities or any other benefits, or income from any sources that might ensue as a result of Employee's termination of this Agreement without cause. This provision shall not apply if there is less than two years remaining on the Agreement, in which case there shall be no payment.

7.3.2 The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that University will incur administrative, recruiting and resettlement costs in obtaining a replacement for Employee, in addition to potentially increased compensation costs if Employee terminates this Agreement prior to its expiration, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Employee and acceptance thereof by University shall constitute adequate and reasonable compensation to University for the damages and injury suffered by it because of such termination by Employee. The foregoing shall not be, nor be construed to be, a penalty.

8.0 Outside Employment.

Employee agrees not to personally, or through any agent actively seek, negotiate for, or accept other full-time or part-time employment of any nature during the term of this Agreement without first having obtained written consent from the Athletic Director and from the President of University.

9.0 Personal Services.

9.1 Employee represents to have special, exceptional, and unique knowledge, skill, and ability as a Head Women's Basketball coach which, in addition to the future development of coaching experience at

University as well as University's special need for continuity in its Team Sport program, will render Employee's services unique. Employee recognizes that the loss of Employee's services to University, without University's approval and release, prior to the expiration of the term of this Agreement or any renewal thereof, would cause an inherent loss to University which cannot be estimated with certainty, or fairly or adequately compensated by money damages.

9.2 Employee therefore agrees, and specifically promises, not to accept employment, under any circumstances, as a women's basketball coach at any institution of higher education, or for any women's basketball team participating in any professional league or conference in the United States or elsewhere, requiring performance of duties prior to the expiration date of the term of this Agreement or any extension thereof, without first obtaining a written release of this Agreement or a negotiated settlement thereof in writing accepted by Employee and the President of the University.

9.3 Employee agrees that University shall have the right, in addition to any other rights which University may possess, to obtain an injunction by appropriate judicial proceedings to prevent Employee from performing coaching activities or other related services in violation of this Agreement, for any person, institution, firm, corporation or other entity; and against any other breach of this Agreement. Employee also agrees to indemnify and hold University harmless for its costs in any injunction proceeding including court costs and attorney's fees.

10.0 Relationship Between the Parties.

The relationship between Employee and University shall be determined solely by the terms and conditions of this Agreement. This Agreement is solely between Employee and University and does not create third party rights in any person.

11.0 Governing Law.

This Agreement shall be governed by and construed under the laws of the State of Michigan, the courts of which shall be the forum for any lawsuits arising from or incident to this Agreement.

12.0 Severability.

If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby.

13.0 Entire Agreement: Modification.

