

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 12
DATE: October 1, 2013

RECOMMENDATION

ACTION REQUESTED

It is recommended that the Board of Regents approve the employment agreement for Head Women's Softball Coach, Melissa Gentile.

STAFF SUMMARY

Melissa Gentile's contract is for a term of five years, from August 19, 2013 through August 18, 2018. 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 compensation of \$75,000; and
- standard fringe benefits.

ADMINISTRATIVE RECOMMENDATION

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

University Executive Officer
Gloria A. Hage
General Counsel

Date

EASTERN MICHIGAN UNIVERSITYTM

ATHLETIC COACH EMPLOYMENT AGREEMENT

I. Introduction

| This Employment Agreement made this __19th__ day of August 2013 by and between the Board of Regents of Eastern Michigan University (hereinafter the "University"), of Ypsilanti, Michigan and Melissa Gentile (hereinafter the "Employee") of Ann Arbor state of Michigan. It is subject to the approval of the University's Board of Regents.

The University agrees to employ the Employee in the capacity of Head Coach, Softball to perform all duties related to the establishment, direction and development of an educationally sound and competitive athletics program, and to perform all duties prescribed by the University's Board of Regents, President, Director of Intercollegiate Athletics, Associate Athletics Director, and Assistant Athletics Director. Such duties will include but not be limited to the following:

A. Plan, direct and implement all phases of a varsity intercollegiate athletic program, including recruitment of academically and athletically qualified students of character; developing competitive schedules; budget preparation and supervision of all aspects of the program. Including the academic progress and conduct of the student-athletes in the program; 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.

B. Conduct all related duties consistent with the National Collegiate Athletic Association (NCAA) and Mid-American Conference (MAC) by-laws, constitution, regulations, and any other directives governing University athletic competition. A coach who is found in violation of NCAA or MAC regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA or MAC enforcement procedures, including suspension without pay or termination of employment for significant or repetitive violations.

C. The employee agrees to devote his/her energies to faithfully, diligently and successfully perform his/her duties set forth in this Agreement. Further, during the term of this Agreement, the Employee agrees not to render services or engage in activities for any other person or entity which are identical or similar to the services and activities required by this Agreement, without written notice to and the written approval of the University's Director of Intercollegiate Athletics.

University and Employee further agree that the employment relationship will be subject to the following terms and conditions:

2. DURATION OF AGREEMENT

| a. This Agreement and the term of employment shall commence on August 19, 2013 and shall continue in full force and effect until August 18, 2018 subject, however, to the right the parties to terminate the Agreement early pursuant to Provisions 2(b) or 2(c).

b. Notwithstanding any other provision to the contrary, this Agreement, and the employment relationship between the University and the Employee, may be terminated without cause by the Employee or the University at any time, with or without notice.

(1) In the event the Agreement is terminated early by the University without cause pursuant to this provision, the University agrees to pay the Employee, as liquidated damages, an amount equal to six (6) months of the Employee's annual salary as specified in Section 3 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 original Agreement expiration date, whichever is less. The payment of liquidated damages shall be made within thirty (30) days of the specified early termination date. To be eligible for this payment, Employee shall execute a release and waiver agreement within such timelines and subject to such terms and conditions as are established by University, including, but not limited to, waiver of any and all legal claims or potential legal claims Employee has or may have against University and any of its related entities, their regents, directors, officers, employees, insurers and agents.

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/her 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 and shall be in full and complete satisfaction of all claims against the University under this Agreement. The foregoing shall not be, nor be construed to be, a penalty.

c. Notwithstanding any other provision to the contrary, this Agreement, including the employment relationship between University and Employee, may be terminated for just cause by the University with written notice to Employee. Just cause for termination includes, but is not limited to, the following grounds:

- (1) Violation of any of the terms of this Agreement, including the duties prescribed above;
- (2) Engaging in any criminal activity, or misuse of University funds or resources;
- (3) Any conduct which violates the rights of student-athletes;
- (4) Failure to follow instructions or directions of the University's Board of Regents, President, Director of Intercollegiate Athletics, Associate Athletics Director, and/or Assistant Athletics Director;
- (5) Violation by Employee of the constitution, by-laws, or regulations of the MAC or the NCAA or any other directive issued by these athletic organizations, as determined by the University, the MAC or the NCAA, or knowing of a violation or potential violation and failing to promptly report it to the Athletic Director;
- (6) Any act of misconduct by Employee.

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.

3. COMPENSATION AND FRINGE BENEFITS

That 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.

a. Salary. University shall pay Employee an annualized salary of \$75,000 paid according to the University's normal payroll procedures, in full payment for the performance of all duties required under this Agreement, less any applicable state and federal tax deductions or deductions authorized in writing by Employee. All salary increases shall be based on the Pay for Performance Compensation Program if University funds are available.

b. Fringe Benefits. University shall provide Employee with the same fringe benefits and on the same terms as provided to non-bargained for administrative employees as of the date of this Agreement.

c. Leave of Absence. A leave of absence may be provided pursuant to Eastern Michigan University policies, rules and regulations. A request for a leave of absence must be approved pursuant to the University's procedures. A leave of absence shall not extend beyond the term of the Employment Agreement.

4. OUTSIDE INCOME AND BENEFITS

The employee annually shall report all athletically related income from sources outside the institution (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) through the Director of Intercollegiate Athletics to the University's President.

Reports must be made on an annual basis. The Athletic Director shall determine the due date of the report. The document must include information concerning athletically related outside income for the previous contract period.

5. AMENDMENTS AND WAIVERS

No change or modification of any part of this Agreement, including this paragraph, shall be valid unless such change or modification is made in writing and signed by the University President, Director of Intercollegiate Athletics, and Employee. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the party alleged to have waived its right under the Agreement.

6. ENTIRE AGREEMENT

This Agreement incorporates and supersedes all prior negotiations, communications, understandings and agreements between the parties hereto regarding the subject matter hereof, whether written or oral. No such prior negotiations, communications, understandings, or agreements shall be of any further force or effect.

7. GOVERNING LAW

This Agreement shall be governed by the laws of the state of Michigan.

IN WITNESS WHEREOF, Employee and the authorized representatives of University have executed this Agreement as of the date set forth above.

**EASTERN MICHIGAN UNIVERSITY
(UNIVERSITY)**

By: _____
Heather Lyke
Director of Athletics

Date: _____

EMPLOYEE

Melissa Gentile
Head Coach, Softball

Date: _____