

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 14
DATE: June 21, 2016

RECOMMENDATION

**APPROVAL OF EMPLOYMENT AGREEMENT FOR HEAD
WOMEN'S BASKETBALL COACH CARLOS CASTRO**

ACTION REQUESTED

It is recommended that the Board of Regents approve the attached employment agreement for Head Women's Basketball Coach, Carlos F. Castro.

STAFF SUMMARY

Carlos Castro was hired as the Head Women's Basketball Coach effective May 09, 2016 for a term of five years, subject to approval by the Board of Regents. Pursuant to Board Policy 3.1.1.2, Employment Agreements, the President or his designee is authorized to negotiate employment agreements with coaches, subject to the approval of the Board of Regents.

The terms and conditions of Coach Castro's employment are contained in the attached Employment Agreement.

FISCAL IMPLICATIONS

Yes, including

- \$195,000 base salary;
- Standard Fringe Benefit Package;
- \$5,000 annually for radio show appearance; and
- Several incentives linked to team performance and attendance at games.

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 UNIVERSITY
ATHLETIC COACH EMPLOYMENT AGREEMENT

This Employment Agreement made this nvdav of May, 2016, by and between the Board of Regents of Eastern Michigan University (hereinafter the "University") of Ypsilanti, Michigan and Carlos F. Castro (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 Athletic Director of the University. 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

Carlos F. Castro Employment Agreement

Page 2 of 12

stated herein, so long as the compensation which University shall pay is consistent with his education, skills, and experience.

2.0 Term.

2.1 This Agreement and the term of employment shall commence on May 9, 2016 and shall continue in full force and effect until June 30, 2021 unless sooner terminated as provided for herein.

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

2.3 If Employee is employed on May 1, 2017, an additional year will be added to the term of this Agreement, so the Agreement will end on June 30, 2022.

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 \$195,000, effective May 9, 2016, 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 benefits and on the same terms as provided to non-bargained for administrative employees, subject to amendment by the University.

3.1.4 University shall provide the Employee with a monthly stipend of \$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. Employee

Carlos F. Castro Employment Agreement

Page 3 of 12

shall be responsible for insuring, maintaining and repairing Employee's automobile. University shall provide assistant coaches with a monthly stipend of \$350 per month for an automobile, under the same terms and conditions as Employee.

3.1.5 University shall provide the Employee and assistant coaches with a monthly cellular phone stipend of \$50 per month (which would be deducted from the Women's Basketball operating budget)

3.1.6 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 \$10,000. If Team wins both, University shall pay a single bonus in the amount of \$15,000.
- C. Employee will receive the following amounts for NCAA tournament participation and performance. These amounts are not cumulative, so the maximum amount Employee is eligible to receive is \$100,000:
 - i. Each season the Team receives an at-large invitation to compete in the NCAA Tournament, the University shall pay Employee a bonus of \$10,000;
 - ii. Each season the Team advances to the round of 32 of the NCAA Tournament, the University shall pay Employee a bonus of \$20,000;
 - iii. Each season the Team advances to the Sweet Sixteen of the NCAA Tournament, the University shall pay Employee a bonus of \$30,000;
 - iv. Each season the Team advances to the Elite Eight of the NCAA Tournament, the University shall pay Employee a bonus of \$40,000;
 - v. Each season the Team advances to the Final Four of the NCAA Tournament, the University shall pay Employee a bonus of \$60,000;
 - vi. Each season the Team advances to the Championship Game

Carlos F. Castro Employment Agreement

Page 4 of 12

- of the NCAA Tournament, the University shall pay Employee a bonus of \$80,000;
- vii. Each season the Team wins the NCAA tournament championship, the University shall pay Employee a bonus of \$100,000.
- D. 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.
- E. University shall pay Employee a bonus of \$2,500 for each win by the Team in the WNIT Tournament.
- F. Each season Employee is named "Coach of the Year" in the Mid-American Conference, the University shall pay Employee a bonus of \$5,000.
- G. 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.
- H. Each season the University determines that paid attendance for home Women's basketball games averages between 1,500 and 1,999, University shall pay Employee a bonus of \$1,000. Each season the University determines that paid attendance for home Women's basketball games averages between 2,000 and 2,999, University shall pay Employee a bonus of \$5,000. If Employee does not become eligible for any of the incentives contained in this section, University shall pay Employee a lump sum of \$1,000 for each home Women's basketball game in which paid attendance exceeds 1,500.
- I. 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.
- J. 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.
- K. 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.

Carlos F. Castro Employment Agreement

Page 5 of 12

- L. Each season the Team has an NCAA Academic Progress Rate (APR) above 950, University shall pay Employee a bonus of \$5,000.

Bonuses for the achievements set forth in this Section 3.1.4 shall be paid on or before May 15 of each year of this Agreement. To be eligible to receive the bonus, Employee must be employed by University at the time the bonus is normally paid.

3.1.7 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.

3.1.8 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.

3.1.9 Moving Expenses. University shall reimburse Employee up to \$20,000 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.

3.1.10 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 Senior Associate 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 To be responsible for the actions of all assistant coaches and administrators who report, directly or indirectly, to the Employee. Employee shall promote an atmosphere of compliance within his program, shall communicate the expectations and commitment for NCAA rules compliance to all staff and student-athletes in the Women's Basketball program, and shall monitor the activities of all assistant coaches and administrators involved with the program who report, directly or indirectly, to the Employee, as well as the actions of prospective and current student-athletes in Coach's program including, but not limited to, activities during official and unofficial visits, extra benefits and actions in violation of academic integrity standards.

4.1.5 Know, recognize and comply with the laws, policies, rules, and regulations governing University and its employees ("University Rules") and the rules of the National Collegiate Athletic Association (NCAA) and the Mid-American Conference (MAC) ("Governing Athletic Rules"), as now constituted or as they may be amended during the term hereof, to supervise and ensure that the assistant coaches and any other employees for which Employee is administratively responsible comply with the aforesaid policies and rules and take active steps to remain educated on University Rule and Governing Athletic Rules. If Employee is found in violation of these rules or regulations, by the University, the MAC, the NCAA or any other governing body, he shall be subject to disciplinary action, including suspension without pay, or termination of employment as set forth in Section 6 of this Agreement.

4.1.6 Immediately report to the Athletic Director and to the Athletic Department Compliance Office in writing if any person or entity, including without limitation, representatives of EMU's athletic interests, has violated or is likely to violate or may potentially have violated any such laws, University Rules and Governing Athletic Rules. Employee shall cooperate fully with the Department's Compliance Office at all times.

4.1.7 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;

4.1.8 Observe and uphold all student conduct and academic standards, requirements, and policies of University;

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

4.1.10 Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Title IX of the Education Amendments of 1972 and other laws and policies, Employee will report any instances of child abuse, sexual assault or harassment and certain other criminal activity of which he has knowledge or reasonable cause to believe has occurred.

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 and 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.

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.

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 deliberate, serious or repetitive violation of any law, regulation, rule, constitutional provision or bylaw of University, MAC or the NCAA, as determined in good faith by the University, the MAC, the NCAA or another governing body, which violation may, in the reasonable judgment of University, reflect adversely upon University or its athletic program, including any serious violation that could result in University being punished by the MAC or the NCAA;

6.1.5 Prolonged absence from duty without University's **consent**;

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, including verbal or physical abuse of student-athletes;

6.1.8 Failure to report violation of University Rules, Governing Athletic Rules, as set forth in section 4.1.5 and 4.1.6 or failure to report the activity described in section 4.1.10.

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. Such hearing will comport with the basic elements of procedural due process.

6.3 Termination of this Agreement by the University may occur only after the review and hearing described in paragraph 6.2.1.

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 one year 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.

9.0 Relationship Between the Parties.

The relationship between Employee and University shall be determined solely by the terms and conditions of this Agreement.

10.0 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.

11.0 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.

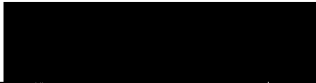
This Agreement contains all the terms between the parties and may be amended only in writing signed by both parties.

Employee and the authorized representative(s) of University have executed this Agreement on this day of May, 2016.


EASTERN MICHIGAN UNIVERSITY

EMPLOYEE:


By:


Heather Lyke,
VP and Director of Athletics

By:


Carlos F. Castro
Head Women's Basketball Coach

By:


Donald Loppnow,
Interim President