

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 15
DATE: June 27, 2017

**RECOMMENDATION
AMENDMENT TO HEAD SWIMMING AND DIVING
COACH EMPLOYMENT AGREEMENT**

ACTION REQUESTED

It is recommended that the Board of Regents approve the attached amended employment agreement for Head Men's and Women's Swimming and Diving Coach, Peter Linn, effective July 1, 2017.

STAFF SUMMARY

The 2016-2017 season marks head coach Peter Linn's 28th season as the head coach of Eastern Michigan University Men's Swimming and Diving program. Coach Linn also took over as head coach of the Women's program in 2004.

In his 28 seasons as Men's head coach, Coach Linn has guided EMU to 22 Mid-American Conference Championships, including eight in a row from 1988-1996. On the Women's side, Coach Linn took over for the 2004-05 season and has led EMU to a 60-31 mark in nine seasons. He was selected MAC Coach of the Year in his first season as Women's coach. He then led EMU to its first Women's swimming title in 2005-2006, once again earning Coach of the Year honors. The 2006-07 season saw EMU capture the conference championship for the second consecutive season. He became the only coach to win both Men's and Women's team championships in the same year.

In consideration of Coach Linn's sustained outstanding performance, the term of his employment is extended five years beyond its current expiration date of June 30, 2017. The amended agreement will commence on July 1, 2017 and end on June 30, 2022. In addition, his salary is increased to \$125,000.

FISCAL IMPLICATIONS

Yes, including

- \$125,000 base salary; and
- \$1,000 bonus for Mid-American Conference Championship

ADMINISTRATIVE RECOMMENDATION

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



University Executive Officer
Gloria A. Hage
General Counsel

6.27.17
Date

EASTERN MICHIGAN UNIVERSITYTM

ATHLETIC COACH EMPLOYMENT AGREEMENT

This Employment Agreement made this 1st day of July 2017 by and between the Board of Regents of Eastern Michigan University (hereinafter the “University”), of Ypsilanti, Michigan and Peter Linn (hereinafter the “Employee”). It is subject to the approval of the Board of Regents.

The University agrees to employ the Employee in the capacity of Head Coach, Men’s and Women’s Swimming & Diving 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; 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.

B. 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 compliance to all staff and student-athletes in the Men’s and Women’s Swimming & Diving programs, 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.

C. Know, recognize and comply with the laws, policies, rules, and regulations governing University (“University Rules”) and its employees 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, rules and take active steps to remain educated on University Rules 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.

D. 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.

E. Pursuant to the Jeanne Clery Disclosure of Campus of 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 misconduct and certain other criminal activity of which he has knowledge or reasonable cause to believe has occurred.

The employee agrees to devote his energies to faithfully, diligently and successfully perform his 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:

1. DURATION OF AGREEMENT

a. This Agreement and the term of employment shall commence on July 1, 2017 and shall continue in full force and effect until June 30, 2022 subject, however, to the right the parties to terminate the Agreement early pursuant to Provisions 1(b) or 1(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 two (2) months of the Employee's base salary as specified in Section 2 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 fifteen (15) 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;
- (6) Any act of misconduct by Employee.

In the event the Agreement is terminated early for just cause pursuant to this provision, the University agrees to pay the Employee that portion of the Salary provided for in Section 2 which is due up to the date of termination as specified in the written notice of termination. This payment shall be in full and complete satisfaction of all claims against the University under this Agreement.

d. If University has provided Employee with an automobile, upon termination or early termination of this Agreement, Employee shall immediately return automobile to University.

Further, at any time during the term of the Agreement the University shall have the right to require the Employee to immediately return the automobile to the University or to a specified dealership.

2. 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 \$125,000 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. The Employee will be eligible for future salary increases in accordance with the program available to employees in his classification.

b. Incentives. During the term of this Agreement, the Employee shall be entitled to receive each of the following bonuses and incentives, less applicable withholding (each of which shall be treated separately, unless otherwise noted):

- (1) \$1,000 will be paid to the Employee at the conclusion of any season in which a MAC tournament or regular season championship was attained in the Men's or Women's Swimming & Diving Programs (not to exceed \$2,000 total).

c. 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 the University's right to amend at its discretion.

d. 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.

3. 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 in conjunction with the annual performance evaluation, which is conducted in accordance with the Pay for Performance Program. The document must include information concerning athletically related outside income for the previous contract period.

4. DISPUTES

All disputes shall be reviewed pursuant to the Non-Bargained for Grievance Procedure as provided in the Eastern Michigan University Policies, Rules, and Regulations Manual.

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: _____ Date: _____
Erin Kido
Interim Vice President and Director of Intercollegiate Athletics

EMPLOYEE

Peter Linn
Head Coach, Men's and Women's Swimming & Diving

Date: _____