

**ECU Board of Trustees
June 26, 2020
Special Called Session**

MINUTES

The ECU Board of Trustees met via teleconference for a special called session on June 26, 2020. The meeting originated from Spilman 105 on the campus of East Carolina University in Greenville, NC. Chairman Vern Davenport called the meeting to order.

ROLL CALL

Mr. Davenport called on Megan Ayers, Assistant Secretary to the Board of Trustees, to call the roll. A quorum was established.

PRESENT:

Vern Davenport
Thomas Furr
Van Isley
Max Joyner, Jr.
Angela Moss
Bob Plybon
Jason Poole
Tucker Robbins
Scott Shook
Vince Smith

ABSENT:

Leigh Fanning
Fielding Miller
Jim Segrave

READING OF ETHICS STATEMENT

In compliance with the State Government Ethics Act, Mr. Davenport read the conflict of interest statement and asked if anyone had a conflict to disclose. No conflicts were identified.

CLOSED SESSION

Mr. Davenport asked for a motion to move into closed session.

Mr. Robbins motioned the board move into closed session: to prevent the disclosure of confidential information under N.C. General Statutes §126-22 to §126-30 (personnel information); and the federal Family Educational Rights and Privacy Act; to consider the qualifications, competence, performance, character, fitness, or conditions of appointment of one or more prospective and/or current employees and/or to hear or investigate a complaint, charge, or grievance by or against one or more employees; to consult with an attorney to preserve the attorney-client privilege.

The motion was seconded by Mr. Poole.

ROLL CALL VOTE:

Vern Davenport - Yes
Leigh Fanning - Absent
Thomas Furr - Yes
Van Isley - Yes
Max Joyner, Jr. - Yes
Fielding Miller - Absent
Angela Moss - Yes
Bob Plybon - Yes
Jason Poole - Yes
Tucker Robbins – Yes
Jim Segrave - Absent
Scott Shook - Yes
Vince Smith – Yes

RETURN TO OPEN SESSION

Upon resumption of open session, the board considered a motion from closed session.

Mr. Robbins moved that the board approve the appointment of Mr. Adler Augustin as the Head Coach of Women’s Volleyball program for a term beginning July 1, 2020 and ending on February 28, 2022 at a twelve-month salary rate of \$92,000, as presented in board materials.

Mr. Poole seconded the motion, there was no discussion. Mr. Davenport called for a roll call vote on the motion.

ROLL CALL VOTE:

Vern Davenport - Yes
Leigh Fanning - Absent
Thomas Furr - Yes
Van Isley - Yes
Max Joyner, Jr. - Yes
Fielding Miller - Absent
Angela Moss - Yes
Bob Plybon - Yes
Jason Poole - Yes
Tucker Robbins – Yes
Jim Segrave - Absent
Scott Shook - Yes
Vince Smith – Yes

The motion was approved with no negative votes. This item is listed as “Attachment A.”

MEETING ADJOURNMENT

Hearing no other business to come before the board, Mr. Davenport asked for a motion to adjourn the meeting. The motion was made and seconded.

The meeting was adjourned.

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Respectfully Submitted,
Megan Ayers
Assistant Secretary to the Board of Trustees



ATHLETICS

June 24, 2020

Adler Augustin
3920 Water Oak Street
Nacogdoches, TX 75965

Dear Adler:

Based upon the recommendation of Senior Associate Athletics Director/Administration & SWA Caroline Bevellard ("Sport Administrator"), I am pleased to offer you the position of Head Coach (the "Position") in the East Carolina University ("University" or "ECU") Department of Athletics Volleyball program for a term beginning July 1, 2020 and ending February 28, 2022 (the "Term"). You will be paid at the annual twelve-month salary rate of \$92,000 payable in semi-monthly installments. This salary is predicated on full-time service. You will receive your first installment on July 15, 2020, provided the paperwork is completed in time for that payroll. Completion of the appropriate paperwork also includes your signing and returning this contract letter ("Contract") as soon as possible and in no event later than ten (10) days after your receipt of this letter.

Your compensation may be subject to periodic review and to policies originally adopted and periodically revised by the University of North Carolina (hereinafter "UNC") Board of Governors or the East Carolina University ECU Board of Trustees. Salary rates for subsequent years of appointment, if any, are subject to revision by the North Carolina General Assembly and subject to compensation policies of UNC and ECU.

Your service to the University as Head Coach in the ECU Athletics Department includes those duties listed in this Contract and the enclosed official position description. You may be assigned additional and/or different duties by the Sport Administrator or Director of Athletics ("Director").

You will foster educational values, maintain a program of integrity, and ensure compliance with ECU's policy on the recruitment and retention of qualified student athletes. You will endeavor to support the progression of student athletes under your supervision toward a degree in a defined academic program and appropriately support the academic progress of said student athletes.

Since your appointment is for a stated definite term, this Contract also serves as your notice of ECU's intent not to renew this Contract. Your employment will automatically terminate at the expiration of this Contract without further notice to you. Your appointment may be renewed by a new letter of appointment solely at the discretion of the University.

Your appointment is governed by ECU's *Policy for Employees Exempt from the State Human Resources Act* (formerly entitled *ECU's Policy for Employees Exempt from the State Personnel Act*), which was approved by the ECU Board of Trustees and which is subject to periodic review and revision. This non-faculty appointment is defined as *Instructional* under Section 1.1.1.2. and Section 2.2.6 ("IRIT Positions") in the aforementioned policy. A copy of this policy is enclosed and can also be accessed at the following link: <https://ecu.edu/pr/06/25/01>.

254 Ward Sports Medicine Bldg. 1 Ficklen Drive Mail Stop 158 ECU Greenville, NC 27858-4353

Phone: 252-737-2531 lowera@ecu.edu www.ecupirates.com

ECU is a constituent institution of the University of North Carolina and is an equal opportunity/affirmative action university.



You hereby represent and warrant that, prior to the date of your signature below, you have disclosed to ECU all of the following relating to any past employment at another NCAA member institution: (a) any known material breach or alleged material breach by you of your duties or your employment agreement or other agreement; (b) any known material violation or alleged material violation by you, or, if applicable, any athletic program under your direction, including, but not limited to, a member of the Volleyball coaching staff, a player, or any other person affiliated with the Volleyball program who reported directly or indirectly to you, of any policies, rules or regulations of the NCAA or any other association, conference or like organization associated with another NCAA member institution, state or federal laws, rules or regulations, or any rules or policies of another NCAA member institution; and (c) any other known material misconduct or alleged misconduct by you, including without limitation fraud, dishonesty, acts of violence, or other conduct that is contrary to the mission of another NCAA member institution or an educational institution. The term "alleged" means a claim or assertion of which you are aware.

You hereby represent and warrant that, prior to the date of your signature below, you have disclosed to ECU all of the following relating to your conduct at any time: (a) all convictions, guilty pleas and Alford pleas to (i) a felony; or (ii) a criminal offense which constitutes fraud, dishonesty or moral turpitude.

In the performance of your duties, you shall comply with all applicable laws and all rules, regulations, and policies of the University of North Carolina, ECU, National Collegiate Athletic Association ("NCAA") and the applicable Conference. You shall cooperate fully with the NCAA in the NCAA infractions process, including the investigation and adjudication of a case. If applicable, you shall ensure that all members of the coaching staff, employees, volunteers, and players under your supervision comply with such laws, rules, regulations and policies. Your material, serious, intentional, or negligent violation or, if applicable, the material, serious, intentional, or negligent violation by any member of the coaching staff or other employee, volunteer, or player under your supervision or within the Volleyball program, of any such laws, rules, regulations or policies will be grounds for disciplinary action, up to and including, but not limited to, suspension without pay or termination for cause.

Only upon receipt of prior written approval from the Chancellor and Director, and in compliance with any other applicable policy or rule, you may enter into outside agreements for media appearances and other personal appearances and accept remuneration for commercial endorsements that fall within the guidelines of the NCAA and that do not conflict with sponsorship agreements entered into by the University, subject to the University's policies. You must obtain prior written approval from the Chancellor, through the Director, for all athletically related income and benefits from sources outside the University and must report all such income annually, through the Director, to the Chancellor. You must comply with the policies of ECU and UNC regarding external activities for pay for any outside income that is not athletically related.

As the Head Coach you may conduct sports camps related to your sport, so long as such activities are approved in advance by the Director of Athletics and comply with all applicable University, Conference and NCAA guidelines and policies, including without limitation the University's policy on "External Activities for Pay" and the *ECU Department of Athletics PRIVATE CAMP/CLINIC MANUAL* and all Attachments.

You are also eligible to receive certain non-salary and other compensation as specified in Appendix A of this letter at the discretion of the Director of Athletics (which is incorporated herein by reference).

If you accept other full-time employment at any time during the Term, this Contract will terminate, effective immediately.

Termination by ECU Without Cause:

In the event that ECU terminates your employment on or before February 28, 2022, ECU's sole obligation to you will be to pay you, as liquidated damages, an amount equal to the remaining and unpaid amount of the base salary that would have been due and payable to you had you remained employed by ECU for the remaining term of the Contract, payable in equal semi-monthly installments, and ending on February 28, 2022 or until you receive other employment (in which case you will receive only the remaining and unpaid amount of your base salary that would have been due and payable to you had you remained employed by ECU through when you receive other employment), whichever comes first. By signing below you acknowledge your obligation to minimize the payments due to you under this section "Termination by ECU Without Cause" and agree to make every reasonable effort to obtain other employment as long as ECU has the obligation to make payments under this section.

Discharge for Cause:

You may be terminated for cause for any violation of this Contract or any duty, warranty or obligation imposed hereunder. In the event that ECU terminates your employment with cause in accordance with ECU's *Policy for Employees Exempt from the State Human Resources Act*, ECU's sole obligation will be to pay your base salary earned prior to the effective date of termination. By signing below, you agree to waive your rights under any other UNC and/or ECU policy that may provide for salary continuation during the pendency of your discharge for cause.

Federal law requires proper documentation of identity and employability (I-9) at the time of employment. If you have not already done so, you are required to complete the Employment Eligibility Verification (I-9) process on or before your first day of employment. A list of the original documents (not photocopies) you may use to complete this certification can be accessed at the following link: <https://www.uscis.gov/i-9-central/acceptable-documents>. Please report to the Office of Human Resources, located at 201 E. First Street, as soon as possible, or no later than your first day of employment, to complete the I-9 verification. Completion of the I-9 certification within the federally required period is a condition of your employment and as such, payroll will not be activated until certification is complete. **Foreign National employees must contact the Payroll Office at 252-328-5461 or 252-328-6955 to address their tax status.**

Your appointment is contingent upon legal authorization to work in the United States. This letter formally notifies you that failure to maintain legal authorization to work in the United States is grounds for immediate dismissal under applicable University policies.

This appointment is contingent upon our receipt of an original official transcript showing conferral of your highest degree within 30 days of receipt of this Contract.

North Carolina law requires notice to every applicant for State employment that willfully providing false or misleading information or failing to disclose relevant information shall be grounds for rejection of an application or later disciplinary action or criminal prosecution. Dismissal from employment shall be mandatory in any case in which a false or misleading representation is made in order to meet position qualifications. The employer is required by law to verify an applicant's representations about credentials or other qualifications relevant to employment. By executing this letter of appointment you (1) authorize the release to UNC and ECU of any document or information within the possession of a third party, such as an educational institution or licensure board, that may serve to verify any representations made by you in your application for employment; and (2) acknowledge that, from the time this Contract is executed and throughout your employment at ECU, you are under an ongoing and continuing obligation to notify

the Director of Athletics of any material changes or additions to the information you provided relative to your application for employment at ECU.

Please note the requirements of ECU's Regulation on Conflicts of Interest, Commitment, and External Professional Activities for Pay contained in the University Policy Manual and complete these items, according to University policy, online at <https://ccu.myresearchonline.org/air/>. Completion and submission of this information is a condition of your employment. A copy of the complete Regulation on Conflicts of Interest, Commitment, and External Professional Activities for Pay is available online for your reference at: <http://www.ecu.edu/prr/01/15/03>.

East Carolina University requires that a criminal background check be conducted on all employees prior to employment. This policy can be located at the following link: http://www.ecu.edu/cs-admin/HumanResources/upload/Criminal_Background_Check_Policy_for_SPA_CSS_and_SAAO_Non-faculty_EPA2013-2.pdf. The purpose of this report is to ensure that the ECU community is a safe place for our faculty, staff, and students to work and study. Employment at East Carolina University is contingent upon receipt of a criminal background report which the University deems satisfactory.

All employees must abide by the ECU patent procedures policy which is located in the University Policy Manual at the following link: <http://www.ecu.edu/PRR/10/40/01>. Please review this policy carefully before signing the enclosed East Carolina University Patent Agreement and Assignment ("Agreement") form. ***Your employment is contingent upon receipt of this signed Agreement.***

You are eligible for fringe benefits in accordance with the State of North Carolina employees' program. You may visit http://www.ecu.edu/cs-admin/HumanResources/benefits_about_us.cfm for information about benefits. Athletics Human Resources will contact you to attend New Employee Orientation at the next available session. Please feel free to contact one of the benefits counselors in the Office of Human Resources if you have questions. The University reserves the right to periodically revise its fringe benefit programs. The University will timely notify you of such revisions and of their effective date.

East Carolina University is committed to ensuring compliance with federal and state reporting requirements, including but not limited to the U.S. Department of Labor, the N.C. Office of State Human Resources, and the U.S. Department of Education (IPEDS). When you begin employment with ECU, please login to your ECU PiratePort account at <https://pirateport.ecu.edu/connect> to access your employee profile through My Information and verify your sex, race, ethnicity, disability, and veteran status. Please be advised that your participation in the verification of this demographic data is voluntary, and declining to provide this information will not subject you to any adverse treatment. While employees are not required to submit this information, the information requested in this Employee Profile will be used to assist the University in its compliance with federal and state record keeping and reporting requirements. Instructions on how to update the displayed information are available on the Employee Profile link in PiratePort. East Carolina University is an equal opportunity employer and prohibits discrimination based upon race/ethnicity, sex, disability or veteran status. (Additional information may be found in the University's EEO Plan, available at www.ecu.edu/oecd.) Responses will be kept confidential, except as specifically provided by law, and used in a manner consistent with law.

All materials or articles of information, including without limitation, personnel records, recruiting records, team information, films, statistics, or any other material or data, furnished to you by the University, or developed by you on behalf of the University or at the University's direction or for University use, or otherwise in connection with your employment hereunder are and shall remain the sole and confidential property of the University. Within five (5) days of the expiration of the term of this Contract or its earlier termination as provided herein, you shall cause any and all such materials in your possession or control to

be delivered to the University. Nothing in this paragraph shall require release of your personal records not related to your employment.

No waiver by the parties hereto of any default or breach of any covenant, term, or condition of this Contract shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term, or condition contained herein.

It is mutually agreed and understood that you shall not incur any indebtedness for or on behalf of the University without first securing the approval of the Director of Athletics.

It is expressly agreed and understood between the parties that the University is an agency of the State of North Carolina and that nothing contained herein shall be construed to constitute a waiver or relinquishment by the University of its right to claim such exemptions, privileges, and immunities as may be provided by law.

Your appointment is contingent upon the continuing availability to the ECU Department of Athletics of funds appropriate for the payment of your salary from sources other than continuing state-appropriated budget funds or permanent trust funds. Notwithstanding any other provision of this agreement, if at any time during the Term these funds are unavailable to the Department of Athletics for any reason, as reasonably determined by the Director of Athletics and the Chancellor in their sole discretion, your appointment will be terminated by ECU immediately and ECU has no obligation to make any further payment to you. For the purpose of clarity, in the event your contract is terminated pursuant to this provision, ECU has no obligation to pay you liquidated damages as specified under the provision entitled, "Termination by ECU without Cause."

In the event one or more clauses of this Contract are declared illegal, void or unenforceable, that shall not affect the validity of the remaining portions of said Contract.

This Contract is a public record subject to disclosure pursuant to North Carolina's Public Records Law.

This Contract is entered in the County of Pitt, State of North Carolina, and is governed and construed in accordance with the laws of North Carolina except that each party to the Contract will be viewed as an equal participant and there will be no presumption against the drafting party.

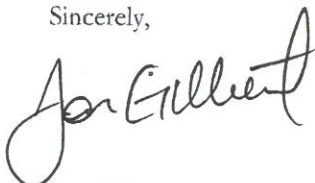
The parties agree that this Contract is the sole and complete contract between the parties with regard to the subject matter contained herein. Except as expressly noted herein, any and all prior contracts and agreements, oral or written, between the parties are hereby terminated and voided.

If you accept this offer, the effective date of this Contract shall be July 1, 2020 the date by which you shall report to ECU to assume your duties as Head Coach in the Volleyball program of the Athletics Department. Failure to report to work on July 1, 2020 shall result in the formal withdrawal of this letter and offer of employment.

Please sign the original and copy of this Contract and return the original to the Athletics Human Resources Office as soon as possible. Please note it will be necessary to have your acceptance within ten days of receipt of this letter in order to make arrangements to cover your proposed responsibilities should you decline our offer.

We look forward to a favorable reply.

Sincerely,



Jon Gilbert
Director of Athletics

/al

cc: Caroline Bevillard, Senior Associate Athletics Director/Administration & SWA
Kitty Wetherington, Associate Vice Chancellor for Human Resources
Personnel File

Enclosures: Position Description
ECU Policy for Employees Exempt from the State Human Resources Act
ECU Patent Agreement and Assignment Form

I accept this appointment as Head Coach in the ECU Department of Athletics Volleyball program according to the terms and conditions stated in this Contract dated June 24, 2020. I fully understand that my employment is subject to all applicable Conference, NCAA, Federal, State, UNC and ECU policies, rules and regulations and all other conditions and contingencies herein. In addition, I understand that this appointment is for the term specified above and that my employment automatically ends at the expiration of this term without further notice to me.



Adler Augustin

6.24.2020

Date

APPENDIX A

BENEFITS AND OTHER NON-SALARY COMPENSATION

SPECIAL PROVISIONS REGARDING NON-SALARY COMPENSATION: Some or all of the non-salary compensation benefits described herein are considered salary for tax purposes and are subject to all applicable State and federal taxes. In addition, payment of all non-salary compensation must be in accordance with applicable ECU, UNC, and State policies and procedures, and is contingent upon approvals as required by applicable ECU and UNC policies.

- (i) You are allowed up to \$10,000 for reasonable moving/relocation expenses including temporary housing (temporary housing cannot exceed 30 nights). Expenses must be documented and reasonably incurred within twelve months of the effective date of this Contract and in accordance with standard procedures and applicable policies of the University.
- (ii) Cell Phone: You may receive a cell phone allowance in accordance with university policy.
- (iii) Automobile: ECU may make arrangements for and provide one (1) courtesy or leased vehicle for you to use, contingent upon and while performing your duties under this Contract and upon the availability of funding for such vehicle. If provided, ECU shall be responsible for maintaining collision and comprehensive liability insurance on the vehicle. You shall be responsible for providing maintenance on any provided vehicle. If a courtesy car or leased vehicle cannot be provided, ECU may, if funds are available and at the sole discretion of the Director of Athletics, provide an annual or one-time automobile allowance, which may be adjusted annually consistent with University policy.

Potential Non-Salary Bonus Compensation. Payment of all non-salary bonus compensation is contingent upon the availability, as determined at the discretion of the Director of Athletics, of non-State appropriated funds, the varsity Volleyball program being in compliance with all NCAA, Conference, UNC and ECU policies, regulations, bylaws, and constitutional provisions including, but not limited to, those relating to academic matters and achieving all minimum Academic Progress Rate ("APR") standards; your being actively employed in the Position, and there being no pending or active NCAA, Conference, UNC or ECU investigations of violations relating to the Volleyball program, or relating to academic matters or conduct of any person who is a part of the varsity Volleyball program. The amount of such bonuses, if any, shall be recommended by the Director of Athletics after consultation with the Sport Administrator. If the above-referenced contingencies are satisfied (including any and all necessary approvals), you may be eligible for non-salary bonus compensation as follows:

(i) **Academic Bonus:** In the event that the team earns a Conference academic award as determined by the Conference office, you may be eligible for an academic bonus of up to 1/12 of your annual salary. Further, in order to receive payment of this bonus, you must be employed by and performing substantial services for ECU on the date the Conference academic award is reported publicly.

(ii) **Academic Progress Rate (APR) Bonus:** With regard to single-year Academic Progress Rate ("APR") for the Team, an APR equal to 985 or greater, you may be eligible for an academic progress rate bonus of \$2,000. Further, in order to receive payment of this bonus, you must be employed by and performing substantial services for ECU on the date the APR is announced publicly. The APR is announced publicly the spring of the following year for the completed current academic year. This bonus will be paid after the NCAA releases 2020-21 APR scores in the spring of 2022.

(iii) Competitive Bonus: In the event that the team wins the Conference Championship or the team is selected for an NCAA (post season) Championship Tournament appearance, you may be eligible for one bonus of up to 1/12 of your annual salary. You must actively participate as a member of the ECU coaching staff in the Conference Championship or NCAA (post season) Championship Tournament appearance to be eligible for the bonus (i.e., you are ineligible for this bonus while reassigned, suspended, or on leave).

The maximum cumulative bonus amount (bonus payments of all types combined) that may be earned in any fiscal year (July-June) shall be less than 25% of your annual salary and shall only be paid in accordance with applicable ECU and UNC policies, procedures and guidelines.

If the most recent available academic period single year APR is at 930 or below, no bonuses will be paid.

The decision to award, rescind or reduce non-salary compensation shall not be based, in whole or part, upon discriminatory factors identified in the University's Notice of Nondiscrimination and Affirmative Action Policy.

To the extent you may be entitled to non-salary bonus compensation payments as specified above, such payments shall be treated by the University as compensation to you in the calendar year in which it is paid and shall be subject to payroll deductions required by state and federal law. The Athletics Human Resources Department will assist you regarding the details of your non-salary compensation package.

Notwithstanding any other provision contained in this Contract, to the degree determined appropriate by the Chancellor, any and all non-salary compensation, including, but not limited to, Academic and/or Competitive Bonuses, shall not be paid in years in which the Volleyball program or any employee, volunteer or student athlete under the supervision of the Head Coach is under investigation, on probation or has been sanctioned by the University, the NCAA or the athletic conference of which the Volleyball program is a member.

If at any time you no longer serve in the Position, any and all non-salary compensation and eligibility to receive potential bonus non-salary compensation will be discontinued immediately. In addition, any cell phone allowance will also be discontinued.

In accordance with the *ECU Policy for Employees Exempt from the State Human Resources Act*, you will earn vacation leave at the rate of 24 days per year and sick leave at the rate of 12 days per year. In addition, you are entitled to the administrative holidays observed by the University. You are required to record your leave and submit your approved leave records. Please consult with the Athletics Human Resources Office regarding questions related to recording this information.

At the time this Contract terminates, you will be paid out for any accrued vacation and/or bonus leave to the extent permissible pursuant to applicable ECU policies. In addition, in accordance with ECU policy and with the appropriate notice, the Director of Athletics reserves the right to reassign you to a position other than the position specified in this Contract for any legally permissible reason with no diminution in salary or benefits.