

## HEAD COACH EMPLOYMENT AGREEMENT

This Agreement is entered into between Montana State University - Bozeman ("MSU" or "University") and Coach Jeff Choate ("Coach") for the employment of a Head Football Coach.

For and in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. **TERM.** Subject to the terms and conditions of this Agreement, MSU will employ Coach as head coach for the MSU Football program ("Program") for the period beginning on January 1, 2016 and ending December 31, 2018.
2. **RENEWAL AND NON-RENEWAL.** The parties may agree to renew or extend this contract upon expiration of the contract under such terms and conditions as the parties agree upon in writing. The parties may begin negotiations no sooner than December 1 of 2017, but have no obligation to do so. The University shall have the option, in its sole discretion, not to renew or extend the contract upon expiration. MSU will notify Coach of its decision no later than March 31, 2018. Failure to provide notice by the date specified will result in the renewal of the employment contract for one year.
3. **DUTIES.** The Head Football Coach is subject to the applicable provisions of the Montana Board of Regents Policy and Procedures Manual [<http://msu.edu/borpol/default.asp>] and the Personnel Policies and Procedures Manual [<http://www2.montana.edu/policy/personnel/>]; and the MSU Department of Athletics Policy Manual. He shall report directly to the Director of Athletics and will be responsible for the Football Program, subject to the directives, input and advice of his superiors.

Specifically, Coach will perform the duties outlined herein.

- a. Coach is responsible for planning, supervision, coordination and leadership in all aspects of the MSU Football Program.
- b. Coach will be assigned a budget for the program and is responsible to maintain the budget and operate the program in a fiscally responsible manner.
- c. The University and Coach acknowledge and agree that student athletes should be integrated into the academic environment, that academic success is paramount and that graduation is the primary goal for student athletes. Coach shall make all reasonable efforts to promote and support the academic success and graduation of the team's student athletes.
- d. Coach acknowledges that student athletes are subject to all policies, rules and regulations governing all students of the University. Coach shall make all reasonable efforts to create an environment in which student athletes respect and abide by all policies rules and regulations governing students of the University.
- e. Coach shall have the authority to approve the hiring and termination of assistants and staff for the Football program subject to the approval of the Director of Athletics. Coach will be responsible for the assignment of duties and supervision of the performance of the assistants and other employees assigned to the MSU Football program.

- f. Coach and the assistants will be required to have current CPR certification and First Aid training as required by the MSU and requested by the Big Sky conference.
- g. Coach will participate in some or all of the following as requested by MSU:
  - Fundraising activities
  - Social activities for boosters
  - Booster golf tournaments
  - Public speaking engagements
  - Interviews and other media obligations as requested and coordinated by the Sports Information Directors
  - The Athletics Department's Football summer camps
- h. Coach is responsible to have knowledge of the applicable constitutions, bylaws, rules, policies, interpretations and regulations of the NCAA, the Big Sky Conference and the University that apply to the Football program, its assistants and student athletes and to assure compliance with the applicable NCAA, the Big Sky Conference and the University rules. Coach will consult, as necessary, and coordinate with MSU employees responsible for monitoring and assuring compliance with NCAA, Big Sky and university rules.
- i. Coach will not unreasonably refuse to perform other duties as may be assigned by the Athletic Director of the President from time to time.
- j. Athletic Director will consult with Coach prior to scheduling an I-A or Bowl Division opponent for the purpose of reaching mutual agreement.

#### 4. CONDUCT OF THE MSU FOOTBALL PROGRAM.

- a. Coach shall conduct himself at all times in accordance with and fully comply with the laws, regulations, rules and guidelines of the State of Montana, MSU, Big Sky Conference, NCAA and in a manner that reflects positively on the image and reputation of MSU. Failure to conduct himself in full compliance with the above-referenced laws, regulations, rules and guidelines may result in disciplinary or corrective action as may be appropriate in light of the severity of the conduct.
- b. Coach shall make all reasonable efforts to ensure that each of the assistants and others under his supervision that assist in the conduct of the MSU Football program comply with the applicable rules and regulations of the State of Montana, Big Sky Conference, NCAA and MSU Athletics and in a manner that reflects positively on the image and reputation of MSU.
- c. Coach acknowledges that he has reviewed the conduct requirements for athletic personnel in NCAA Bylaw 11.1 and agrees to comply and require the staff he supervises to comply with all NCAA bylaws including the bylaws related to conduct. Specifically with regard to NCAA violations, Coach acknowledges that if NCAA or other violations are alleged, he or members of his staff may be suspended with pay or reassigned pending the completion of the investigation.
- d. Coach agrees to cooperate fully with any investigation by the University, the Big Sky Conference or the NCAA.

5. COMPENSATION.

- a. *Annual Base Salary.* Effective upon execution the Annual Base Salary for duties performed by Coach under this Agreement shall be \$180,000 payable in monthly installments. Coach is entitled to all employee benefits available to full time contract employees of MSU.
- b. *Increases in Base Salary.* MSU reserves the right, exercisable in its discretion, to increase the Coach's annual Base Salary based upon the guidelines issued annually by the University for salary adjustments of all contract employees. Coach is entitled to all employee benefits available to full time contract employees of MSU.
- c. *Summer Camps.* MSU will sponsor summer sports camps for youths. Coach will perform such services in connection with such camps as may be assigned by the Director subject to reasonable time limitations established after consultation with Coach.

To the extent that the camps generate revenue that exceeds expenses, Coach may direct the use of those funds for his program or for payment of additional compensation to himself or his staff members for all or part of the funds. Payment will be made within thirty (30) days following completion of the summer camp and the related accounting process. Coach may not conduct or direct any camps that are not sponsored by MSU-Bozeman while employed by MSU as Head Coach.

- d. *Automobile.* MSU will use its best efforts to obtain a courtesy automobile from a local dealership or lease an automobile for Coach's use while employed as Head Football Coach by MSU. If a courtesy automobile is provided, Coach will execute a Courtesy and Lease Vehicle Agreement. The business and personal use of the automobile will be reported monthly to MSU Payroll in a format determined by that office. The personal use of such automobile will be valued according to guidelines of the Internal Revenue Service and reported as income to Coach.
- e. *Coach's Shows.* MSU will produce or arrange for the production and broadcast of a weekly radio and/or television shows during the Football season and at such other times as may be requested by the Director of Athletics. For the period that Coach is head coach, he will be required to appear on such show(s) and assist in the production thereof. During the season, Coach will be expected to participate in a weekly media lunch, a weekly Coach's show and pre and post-game shows and other occasional special media events. Coach will be paid \$35,000 per year for services related to Radio show(s). Coach will also be paid \$35,000 for his appearances on all of the coach's television shows arranged by the University. Coach may elect to have this compensation distributed equally through the contract year in which the shows occur, or may elect to have the amount paid in a lump sum with the final pay-period of the contract year. The University may produce or arrange for the production and broadcast of radio and/or television shows outside of the football season. If Coach's participation is needed in other than weekly radio and television shows during Football season and the "other occasional special media events" referred to in this paragraph, the Athletic Director will work with Coach to arrange the timing of the shows to accommodate Coach's schedule.
- f. *Fundraising.* Each year Coach promotes and participates in fundraising activities, social activities, Booster functions (social and golf), public speaking engagements, and tickets sales campaigns (season and single game), the University will pay Coach \$25,000.

- g. *Athletic Products Promotion and Endorsement.* Coach may upon prior written approval of the Athletic Director and the President, accept and agree to accept payments for services from persons other than the University which are permissible under the rules and regulations of the University, the NCAA and the Big Sky Conference. Coach agrees to report annually (in writing) to the Director of Athletics and the President of MSU and no later than September 1 of each year, all athletically-related income and benefits from sources outside the University, including television and radio programs and any other sources not sponsored by the University. MSU will not unreasonably withhold or delay its approval.
- h. *Athletic Equipment, Supplies or Accessories.* MSU may enter into agreements with various manufacturers and distributors to provide athletic equipment, supplies, and accessories ("Products") for MSU's intercollegiate athletics department. When required by such agreements, Coach will undertake reasonable promotional activities and endorse those Products that are provided for use in the Program. Coach, the assistant coaches, athletes, and other personnel for the Program will be required to use the Products in practice, games, and at public appearances unless good cause exists to allow an exception. For the services provided with regard to promotional activities and endorsement of such Products, Coach may be paid as determined at the time the agreements are negotiated by MSU. The parties agree that coaching duties shall be take priority over any promotional activities.
- i. *Outside Employment, Consulting or Endorsement.* Any outside employment, consulting or endorsement activities may not conflict with the efficient conduct of the MSU Football program, violate policies, rules and regulations pertaining to consulting and/or the use of the University for advertising and may not present MSU Football, the university or the in a way that may adversely affect the reputation and integrity of the program, the university or the Coach.
- j. *Public Appearances, Public Speeches.* Coach may deliver, make and grant public speeches, public appearances and media interviews and participate in other media activities in connection with his position as Head Football Coach. Any use of photographs, films and videos of the MSU Football team and its games and practices in connection with such activities are approved to the extent the university has ownership of the copyright on such materials. If Coach wishes to use MSU photographs, films and videos in connection with a personal commercial endeavor, he must enter into an appropriate licensing agreement with related payment of licensing fees.
- k. *Annual Performance Incentives.* If while performing his duties as Head Coach, the MSU Football team (For purposes of this section, "Football team" will include a player who must be considered part of the team for purposes of computing the APR under NCAA rules and any walk on that is included on the squad list at the end of each semester) is recognized in any of the following ways, Coach will be paid an Annual Performance Incentive in the amount indicated.

i. Grade Point Average:

Each semester Football has an average team GPA of 2.75 or higher	\$5,000
Each academic year Football has an average team GPA of 2.75 or higher	\$ 5,000
Each year the Football team attains an annual NCAA academic progress rate [APR]	
i. score of 945	\$ 7,500
ii. score of 960	\$ 7,500

iii.	score of 975	\$ 7,500
iv.	score of 990	\$ 7,500
v.	score of 1000	\$ 7,500

ii. Graduation Success Rate:

Each year the Football team attains a "Graduation Success Rate" as measured by the NCAA of:

i.	70-79 percent	\$7,500
ii.	80-89 percent	\$5,000
iii.	90-99 percent	\$5,000
iv.	100 percent	\$5,000

iii.	Compensation for playing a NCAA Bowl Championship Team	\$10,000
iv.	Compensation for beating a NCAA Bowl Championship Team	\$10,000
v.	Maintain or increase season attendance	\$5,000
vi.	Recognized by the Big Sky Conference "Coach or Co-Coach of the Year"	\$10,000
vii.	Recognized as regional or national "Coach or Co-Coach of the Year"	\$10,000
viii.	Finish the Regular Season as Conference Champions or Co-Conference Champions	\$12,500
ix.	Beating the University of Montana	\$10,000
x.	Games won during the season versus FCS and FBS opponents.	
	a. Achieving Eight wins including regular and post season	
	\$7,500	
	b. Achieving Nine wins including regular and post season	
	\$7,500	
	c. Achieving 10 or more wins including regular and post season	
	\$7,500	
xi.	Qualifying for the NCAA, Football Championship Sub-division Playoff	\$7,500
xii.	Advance to the Second Round of the FCS Playoffs.	\$7,500
xiii.	Advance to the Quarter-final Round of the FCS Playoffs.	\$10,000
xiv.	Advance to the Semi-Final Round of the FCS Playoffs.	\$10,000
xv.	Advance to the National Championship Game of the NCAA FCS.	\$15,000
xvi.	Winning the National Championship of NCAA FCS.	\$50,000

Each of these payments shall be paid in a lump sum within 60 days of the attainment of each of the above.

If this employment agreement is terminated by either party for any reason, Coach shall be paid any incentive earned by the date of termination.

- l. *Country Club Dues.* MSU will pay the Coach's annual dues for membership at a Country Club during the term of this agreement. Should Coach discontinue performing duties as Head Coach for any reason, MSU will discontinue payments for membership.
  - m. *Spousal Travel.* Coach' spouse may travel on charter flights or bus trips at his discretion without charge. If this benefit is considered a taxable fringe benefit under the rules of the Internal Revenue Services, Coach will be taxed as required.
  - n. *Tickets.* MSU will provide Coach complimentary tickets as detailed below. Coach will not resell or trade tickets for personal benefit. If this benefit is considered a taxable fringe benefit under the rules of the Internal Revenue Services, Coach will be taxed as required.
    - i. Six (6) Season Football Tickets
    - ii. Eight (8) tickets per home game (including home playoff games)
    - iii. Four (4) tickets to men's basketball games
    - iv. Four (4) tickets to women's basketball games
  - o. *Assistant Coaches.* Coach may elect to pay Assistant Football Coaches incentives payments from raised funds (The Bobcat Quarterback Club or Coaches excellence Account) provided the cash supplement is in recognition of a specific achievement and is in conformance with NCAA Bylaw 11.3.2.3 and subject to the prior approval of the Director of Athletics. The amount of the incentive and the specific achievement for which it is awarded will be determined by the Head Coach in consultation with the Director of Athletics.
6. **ANNUAL REVIEW.** The Athletic Director will conduct an annual review of the Coach within thirty (30) days of the completion of the season.
7. **DEDUCTIONS FROM COMPENSATION.** Payments to Coach by MSU pursuant to the terms of this Agreement shall be subject to all payroll and benefit deductions required by law or university regulation. Coach may make such other deductions permitted by law and authorized by MSU in writing.
8. **OTHER EMPLOYMENT.**
- a. If more than six months remain of the term of this Contract or any extension thereof, Coach agrees that he will not actively seek, negotiate for or accept other employment of any nature without the prior permission of the Director of Athletics or the President of MSU, including but not limited to employment as a Football Coach for another institution of higher education or professional or semi-professional team. Approval by the Athletic Director and the President shall not be unreasonably withheld.
  - b. During the term of this Agreement, Coach shall not engage in any other employment, act in a consulting capacity to any person, partnership, association, or corporation, or receive any athletically related income or benefit from sources outside the institution, except as may be permitted by the Constitution and Bylaws of the NCAA, and with the prior written approval of the Athletic Director and the President of Montana State University. Each request for approval must be in writing and shall specify the source and amount of the income or benefit to be received. Approval shall be required annually.

- c. Coach will comply with NCAA Bylaw 11.2.2, as amended, and will provide a written detailed account annually to the President of all athletically-related income and benefits earned or accrued from sources outside the institution during the previous calendar year. This report will be submitted to the MSU President through Director of MSU Athletics by January 31st of each year. Except when Coach is required by MSU to endorse, promote, appear in advertisements of, or consult with regard to athletic equipment or accessories for the purpose of complying with contractual obligations of MSU, and except when engaged in activities authorized by paragraph 5(g) this Agreement, the name, marks, or logos of Montana State University may not be used and Coach may not be identified as the Head Football Coach of MSU: (1) for purposes related to any employment, consulting, or athletically related activities of Coach other than for MSU, or (2) in connection with Coach's endorsement, support, promotion, or advertisement of any person, partnership, corporation, association, product, or service.
9. TERMINATION FOR CAUSE. This Agreement may be terminated by the President of MSU or his/her designee at any time prior to its expiration for just cause, which shall include the following:
- a. Involvement in any deliberate or knowing violation of any law, regulation, rule, bylaw, published policy or constitutional provision of the State of Montana, the Board of Regents, the published University policies, NCAA or the Big Sky Conference, including any violation of NCAA or Conference law, regulation, rule, by-law, policy or constitutional provision which may have occurred during Coach's previous employment if persons involved were (a) acting at the instruction, direction or consent of the Coach, or (b) about which Coach knew or, upon reasonable investigation, should have known and failed to report to the Director of Athletics;
  - b. Any deliberate or knowing violation of any law, regulation, rule, bylaw, published policy or constitutional provision of the State of Montana, the University, the NCAA or the Big Sky conference by any representative of the University's football program (a) acting at the instruction, direction or consent of the Coach, or (b) about which Coach knew or, upon reasonable investigation, should have known and failed to report to the Director of Athletics
  - c. Failure to administer, operate, maintain or control all aspects of the University's Football program, including, but not limited to, the actions of assistant coaches, staff, independent agencies or organizations or of representatives of athletic interests, in compliance with the regulations of the NCAA, Big Sky Conference or MSU;
  - d. Engaging in criminal conduct which results in Coach's conviction of a crime;
  - e. Soliciting or negotiating, whether directly by Coach or through an agent or representative, employment with another sports related business or program without the express written consent of MSU, or as otherwise permitted in paragraph 8(a), which consent will not be unreasonably withheld; or
  - f. Prolonged absence from the university without its consent.

Notwithstanding any other provision to the contrary, the commission of a minor traffic offense by Coach does not constitute "just cause."

With respect to NCAA rules, "involvement in a deliberate or knowing violation" shall include, but not be limited to: (1) involvement by the Coach or a member of his staff in any serious and broad infraction of

NCAA rules (*i.e.*, Level I and Level II) as defined by those rules and determined by the NCAA, Big Sky Conference or the University; (2) involvement by the Coach or a member of his staff in multiple, similar violations or a pattern of lesser violations (*i.e.*, Level III or IV) of NCAA rules as defined by those rules and determined by the NCAA, Big Sky Conference or the University; (3) "unethical conduct" as defined by NCAA rules; or (4) failure to report an infraction of NCAA rules about which the Coach knew or should have known. Failure to exercise this right to terminate as to any particular breach under this section shall not be deemed a waiver as to any future right to terminate. If the deliberate and knowing violation was committed by an assistant coach or member of the staff, the university will take into account any mitigating factors including evidence that the Head Coach has implemented a system of compliance designed to ensure rules compliance and satisfaction of institutional/coaches control standards required by the NCAA.

#### **10. PROCESS FOR TERMINATION FOR CAUSE.**

- a. Prior to termination for cause, Coach shall (i) be provided with written notice of contemplated termination and a written statement of the reasons and facts in support thereof, (ii) have seven (7) calendar days from receipt of such notice to deliver a written request for a pre-termination hearing on the contemplated action, and (iii) maintain all benefits provided for pursuant to this Agreement. Any written requests for a hearing shall be delivered to the Office of the President of the University. If no written request is delivered to the President as provided herein, a contemplated termination shall become final seven (7) calendar days following the President's receipt of such notice.
- b. Upon receipt of a written request for a hearing, the President will appoint one or more neutral persons to hear the Coach's response to the written notice of contemplated termination. The meeting will be informal and is not an evidentiary hearing subject to the rules of evidence or civil procedures. Coach has the right to appear before the appointed person(s), with a representative if he desires, to comment on the reasons given for the contemplated action and to present reasons against it. Coach may present documents and written statements. The person(s) hearing the Coach's response will provide recommendations on the matter to the President or his designee. The President or his designee may seek counsel from the athletic department, shall consider the matter, and notify, in writing Coach, and the Director of Athletics of the final decision of the university.
- c. If this Agreement is terminated for cause in accordance with this section, all obligations of the University to make further payments and/or to provide any other consideration under this Agreement shall cease as of the date of termination. The University shall not be liable to Coach for loss of any collateral business arrangements or opportunities, nor shall he be entitled to payment of any payments or performance incentives listed in Section 5 for that year.

#### **11. COACH INCAPACITY, RELIEF FROM DUTY OR REASSIGNMENT OF DUTIES, AND COACH RESIGNATION.**

- a. Coach Incapacity. If Coach dies or becomes disabled or incapacitated and is unable to perform his duties under this contract for six (6) months, this Agreement shall terminate and all obligations of MSU to compensate Coach pursuant to this Agreement shall cease as of the date of such disability, resignation or death. MSU shall be obligated to compensate Coach in



accordance with this Agreement for services performed prior to the termination date and, in the event of death, Coach's estate shall be entitled to those benefits, if any, that are payable under any MSU sponsored group employee insurance or benefit plan in which is enrolled.

- b. **Relief from Duties.** University may relieve Coach of Coach's duties at any time during its term upon written notice to Coach. If the University relieves the Coach of duties without cause, it shall pay the Coach, as liquidated damages, the lesser amount of either twelve (12) months' salary and benefits OR an amount equal to that portion (pro rata) of the Coach's then current base salary and benefits remaining unpaid under this Agreement if fewer than twelve (12) calendar months remain prior to this Agreement's expiration. The term "benefits" shall mean: employee benefit plan contribution; retirement plan contribution; sick leave and annual leave in accordance with state law; and other benefits available to all full-time contract professional employees. Unless otherwise agreed upon in writing by the parties, the liquidated damages (base salary and benefits) will be paid in twelve installments or in equal monthly installments if less than twelve months remain until the end of the term of this Agreement. Perquisites and stipends paid to Coach as "Compensation" under Section 5, subparagraphs (c) through (n) are not salary or benefits for purposes of this Agreement and are not payable to Coach upon Coach being relieved of Coach's duties. Payment of salary and benefits will be in lieu of any and all other contractual remedies available to Coach.
- c. Coach may terminate this Agreement for any reason upon written notice to University. If such termination (other than by reason of death, disability, or incapacity) occurs during the term of this contract or any extension hereof, Coach will pay) to the University, as liquidated damages the lesser amount of either twelve (12) months' salary and benefits OR an amount equal to that portion (pro rata) of the Coach's base salary and benefits remaining unpaid under this Agreement if fewer than twelve (12) calendar months remain prior to this Agreement's expiration. This amount will be in lieu of any and all other contractual remedies available to University pursuant to this paragraph. If the Coach provides a sworn statement that he wishes to retire and will not coach for any other school, college or university, the University will waive the payment of liquidated damages.
- d. The parties acknowledge that the University will incur administrative, recruiting, resettlement and other costs in obtaining a replacement coach in addition to potentially increased compensation costs and loss of ticket, broadcast or other revenues, which damages are impossible to determine with certainty and accordingly agree to this liquidated damages provision. The parties further agree that the liquidated damages provided for herein are reasonable in amount and not a penalty.
- e. If either Party terminates this Agreement, University will be obligated to pay to Coach the Annual Performance Incentives earned as of the date of such termination.

## 12. DISPUTE RESOLUTION.


- a. If any dispute arises under this Agreement, the parties agree to attempt to resolve the dispute in good faith as follows:
  - (1) First, by informal negotiation.
  - (2) If informal negotiations fail to resolve the dispute, the parties agree to seek mediation using a mediator acceptable to both parties.

- (3) If mediation fails to resolve the dispute within 30 days of the initial mediation session, the parties agree to submit to binding arbitration under the provisions of the Montana Uniform Arbitration Act, Title 27, Chapter 5, MCA. The arbitration shall be conducted before a single arbitrator selected by the parties. If the parties have not selected an arbitrator within 10 days of written demand for arbitration, the arbitrator shall be selected by the American Arbitration Association.
- b. The parties agree that venue for any alternative dispute resolution proceed, to enforce or interpret this agreement will be conducted in Gallatin County, Montana.

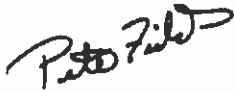
13. **MERGER AND AMENDMENT.** The provisions of this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and no prior or contemporaneous agreement, either written or oral, shall have the effect of varying the terms hereof. This Agreement may be amended by mutual written agreement of the parties, but no such amendment will be effective unless made in writing and approved by the President of Montana State University. Should any provision of this Agreement be found to be illegal or unenforceable, the Agreement shall be interpreted as if that provision were not contained within the Agreement and in a manner which makes the Agreement legal and enforceable.

14. **GOVERNING LAW.** The validity, interpretation, performance, and enforcement of this Agreement shall be governed by the laws of the State of Montana.

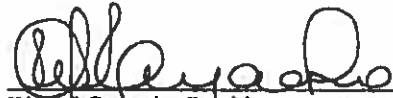
This agreement is subject to approval of the Board of Regents.

  
 Jeff Chate, Coach

1/7/16  
 Date

  
 Peter Fields, Director of Athletics

1-7-2016  
 Date

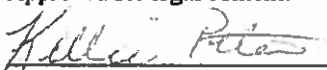
  
 Waded Cruzado, President

Jan. 8, 2016  
 Date

  
 Clay Christian, Commissioner of Higher Education

1/26/2016  
 Date

Approved for legal content:

  
 Kellie A. Peterson

1-11-16  
 Date