

Davie, UNM have agreed they'll play nice

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Bob Davie

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Former Lobo football coach Bob Davie and University of New Mexico officials aren't allowed to bad-mouth one another, and there are major consequences if either party does.

In addition to paying Davie \$825,000 to leave two years before his contract expires, UNM also will be picking up the tab for his health and dental insurance for the next two years.

And Davie has agreed not to sue the university for age discrimination, or any other matter arising out of his time at UNM or the way he was shown the door.

The terms are included in the settlement agreement between Davie and the university. The document, signed by both parties Nov. 25, was released to the Journal late Wednesday in response to a request under the state's open records law.

And while university officials and some regents maintain that the university's Board of Regents didn't need to sign off on Davie's six-figure deal, the settlement document itself says otherwise.

"This agreement is not final until approved by the Board of Regents," the settlement document states.

Regents didn't vote on the Davie settlement during a lengthy meeting Tuesday. The Davie buyout was discussed in a closed session, and the meeting ended with regents saying they weren't required to take a vote on the matter.

UNM athletic director Eddie Nuñez stepped out of the meeting minutes before it ended and announced the terms of the Davie buyout – which is that the coach will be paid \$825,000 over the next 30 months.

The last page of the 10-page settlement agreement says regents must approve the agreement for it to take effect. UNM President Garnett Stokes' initials are written in the margin next to the statement.

But University counsel Loretta Martinez told regents during the executive session that they weren't required to vote on the Davie settlement, Regent Rob Schwartz said in an interview with the Journal after the meeting.

“As I understand it, it's not required (to have regents vote to approve the buyout), and the regents have no authority to approve a decision to live up to a contract,” he said Tuesday. “If there already is an agreement in a contract, then we are bound by that contract. That was legal counsel's opinion.”

Martinez didn't respond to requests for comment late Wednesday.

University administration didn't immediately comment on the settlement documents Wednesday night.

Regent Kim Sanchez Rael said regents were advised on the matter by university counsel, but she declined to comment further on what was said in the executive session.

“Subsequent to the drafting of that agreement there was an awareness that because the actual policy that governed this was a contractual matter ... it did not require a regent vote,” Sanchez Rael said Wednesday night. “So it was really a management team decision.”

The settlement between Davie and the university, however, references a regent policy that requires the board to vote on settlements over \$400,000. UNM officials said Tuesday that policy only applies to settlements reached in lawsuits, not an employee matter like Davie's.

Regent President Doug Brown said Wednesday that if the settlement would have been a significant deviation from Davie's contract, regents may have had to vote on the agreement.

Davie was under contract to coach the Lobos through the end of the 2021 season, but last month university officials announced that UNM and Davie had agreed to part ways. The announcement came the same day the settlement agreement was signed by Davie and Stokes – five days before the final game of the season.

Davie was given seven days to back out of the agreement.

By signing the settlement, Davie waived his right to pursue any lawsuits or claims against the university in connection with his tenure as coach. The document also specifically states that Davie waives any claim he may have under the Age Discrimination in the Employment Act of 1967.

Davie was 65 at the start of his final season at UNM, which ended in a nine-game losing streak and a final record of 2-10. In eight seasons at UNM, he had a 35-64 record.

The agreement states that “Mr. Davie will not defame or disparage UNM, its past or present officers ... including ... director of Athletics, Eddie Nuñez, regarding any aspect of his employment at UNM. Breach of this provision will relieve UNM of any obligations” it has to pay Davie.

The document also says UNM employees, specifically those under the direct control and supervision of Stokes and Nuñez, shall not defame or disparage Davie, his agents, attorneys, family or others acting on his behalf.

UNM also agreed to warn athletics department employees and staff who report directly to the president that they are not allowed to disparage Davie, and doing so would lead to “adverse employment action.”

Davie’s \$825,000 settlement closely reflects the base pay that he was to be paid for the next two years. His annual salary – not including incentives – was about \$422,000 in base pay, or about \$845,000 for the two years left on his contract.

The settlement says that for the next two years, UNM will pay any potential additional amount of an increased premium that results from Davie obtaining health or dental coverage under COBRA.