

# CHIEF RETURNING OFFICER / ELECTIONS & REFERENDUM COMMITTEE RULING

## ***Toronto Metropolitan Students' Union By-Elections 2023***

*The following is a ruling of the Election & Referenda Committee relating to the 2023 TMSU By-Election.*

The rules and procedures of the election are determined by the TMSU By-Laws and the Election Procedure Code, which can be found here: [yourtmsu.ca/election](http://yourtmsu.ca/election)

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| Ruling Code #                                 | ERC#006TB  |
| Date Received:                                | 11/20/2023   |
| Date of Ruling:                               | 11/24/2023   |
| Related Rulings                               | N/A  |
| Type of Decision                              | Initial Ruling   |
| Nature of Decision                            | Eligibility Issue  |
| Complainant/CRO:                              | Complainant  |
| Nominee/<br>Candidate:                        | Trevohn Baker  |
| Alleged Violation in<br>By-laws or the Code   | N/A – not included in EPC, ruling depends on evidence presented to the ERC |
| Relevant Penalties<br>provided in the<br>Code | N/A – if violations are found, this candidate would be deemed ineligible   |



## **Evidence presented by the Complainant/CRO:**

While the complainant was organizing outdated email accounts on the TMSU Google Workspace account, a security breach was found to have occurred in one of the TMSU's former staff emails. The former employee and Presidential candidate gained access to the TMSU account on October 23<sup>rd</sup>, the week prior to nominations opening. The Candidate restored this TMSU email address without authorization, and updated the recovery email and phone number information for the email on October 23 and October 25, according to Google Workspace. The complainant provided screenshots of their discovery and found that the Candidate was accessing and managing the TMSU inbox from an Apple device up until November 18<sup>th</sup>. The complainant was unclear what the purpose of this was or what information they were seeking to access. Furthermore, TMSU should have been contacted if the Candidate needed to access information they were not authorized to access as a non-employee of the TMSU. This email contains sensitive student information that could have been used as an advantage in the TMSU by-elections.

## **Evidence presented by the Candidate:**

To investigate the reason for this breach, the Candidate was contacted by the ERC for an explanation to be provided as to the reason why a TMSU email account was accessed after their employment had ended.

The Candidate confirmed they accessed the TMSU account because they required access to their pay stubs for the year. The Candidate states that they did not have time to retrieve their pay stubs after their employment with the TMSU ended. They went into their account to download the paystubs. The Candidate alleges that "other employees" were previously told that their accounts would be archived yet still accessible to them "if needed." The defendant states they are unsure of the relation of this incident regarding the TMSU by-elections in that no by-laws or election policies were breached.



## **CRO/ERC Decision:**

In the evidence provided by the complainant, it is clear that the Candidate accessed a TMSU email account and the dates provided as to when this occurred are accurate. The ERC views these actions as a breach of organizational privacy. The ERC had concerns as to the type of information that was being accessed, but through the investigation, there was insufficient evidence to conclude that additional information was accessed. These concerns stem from the ability to gain access to student information days before the nomination period was to take place. Due to insufficient evidence as to whether information was accessed, viewed, or downloaded, the ERC is unable to make a ruling on whether these actions violated election policies. Upon further investigation, the ERC denies that the Candidate was informed that they can access former emails after the end of their employment with the TMSU.

| <b>CRO/ERC Decision</b> |                           |
|-------------------------|---------------------------|
| Penalties Issued        | N/A                       |
| Deadline to Appeal      | N/A this is an ERC ruling |

