

Secretarial Assistant 2 incumbents have supervised support staff. She refers to two other individuals who were not required to supervise while in the Principal Clerk Typist title although they no longer hold those positions. The petitioner requests a retroactive provisional appointment to Principal Clerk Typist with back pay.

CONCLUSION

In the instant matter, there is no basis to provisionally appoint the petitioner to Principal Clerk Typist. First, vacancy postings are initiated by the appointing authority and they are not monitored or controlled by this agency. Such postings are used by the appointing authority to generate a list of interested individuals to fill vacant positions. If a provisional appointment pending promotional examination results from the posting, the appointing authority must adhere to Civil Service rules and procedures regarding provisional appointments and promotional examination announcements. *See In the Matter of Sarah J. Seigel* (MSB, decided January 11, 2000). Each request is different, and the approval of one vacancy has no bearing on the approval or disapproval of another vacancy. Moreover, even if there had been an approved vacancy, the Civil Service Commission does not require agencies to offer vacant positions to employees, or to fill them.

Next, the petitioner never performed the duties of a Principal Clerk Typist appointee. Rather, the petitioner contends that since Greystone offered her the position and she accepted, she should retroactively be provisionally appointed as a Principal Clerk Typist. The Commission disagrees in this case. It is apparent that upon further review of the position, Greystone determined that utilization of the Principal Clerk Typist title was not an appropriate classification since the position would not supervise subordinate staff. That determination is consistent with the State Classification Plan. In this regard, titles are assigned to ERGs based on the classification of the position by this agency. *See N.J.S.A. 11A:3-1*. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision. *See In the Matter of Alan Handler, et al., Department of Labor and Workforce Development* (CSC, decided October 7, 2015). Accordingly, a position for Principal Clerk Typist could not be approved without supervisory duties.

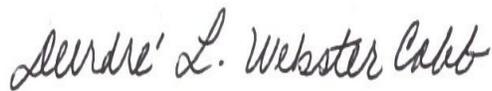
As to the Principal Clerk Typists the petitioner alleges do not supervise, even if true, the misclassification of another individual's position cannot be used to support the approval to misclassify a different position. Additionally, an award of backpay is not warranted in cases where the duties of a position have not been performed. The appellant has absolutely no entitlement to a provisional appointment, much less to a position for which her appointment was disapproved, and any claim for differential back pay is not merited.

ORDER

Therefore, this request is denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 23rd DAY OF OCTOBER, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Michele Long-Vickers
Jeannette Hagood
Chandra Curtis
Kelly Glenn
Records Center