

ABVE 2021 Annual Conference

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Best Practices & Methodologies for Social Security Vocational Experts

INTRODUCTION-

Social Security Vocational Experts

What the heck is an SSVE?

Purpose of the SSVE

- Unbiased independent contractor
- Classify the Claimant's past relevant work
 - 15 years prior to onset of disability
 - Must use Dictionary of Occupational Titles (DOT)
- Address Transferable Skills if claimant is over age 50

Purpose of the SSVE

- Classify Past Relevant Work (PRW), determine if the individual can perform PRW.
- Answer questions for transferable skills jobs
- Answer hypotheticals for other work potential from Administrative Law Judges (ALJ's)
 - Answers must use DOT job titles and corresponding DOT number
 - Give estimated job numbers for the DOT titles

Recommendation: Familiarize yourself with the *Vocational Expert Handbook* found at:

[https://www.ssa.gov/appeals/public_experts/Vocational_Experts_\(VE\)_Handbook-508.pdf](https://www.ssa.gov/appeals/public_experts/Vocational_Experts_(VE)_Handbook-508.pdf)

How does one become an SSVE?

- Apply for a blanket purchase agreement (BPA)
 - Only open a few months/weeks every few years
 - Follow www.FedConnect.net for BPA openings
 - Next anticipated contract in 2024 to be effective 2025
- Qualifications
 - Historical information for qualifications
 - Certifications- Change in 2019 to qualification process
 - Must now be CRC and/or ABVE Fellow of Diplomate

Old requirements from 2011 BPA

- A. Current and extensive experience obtained from being actively engaged as a principal, employee, or private consultant in counseling and the actual job placement of adult handicapped people;
- B. Up-to-date knowledge of, and current experience with, industrial and occupational trends and local labor market conditions;
- C. Current knowledge and use of a variety of vocational reference sources; and,
- D. An offerer who is teaching in the vocational rehabilitation field at the university or college level or administrators in the field of rehabilitation should also possess the required credentials or qualifications.
- E. Persons who have retired or left the field of vocational rehabilitation are not eligible for award.

IARP White Paper, endorsed by ABVE

- In the current 2020 BPA, “The White Paper” Language was considered by SSA. This was developed by IARP but was endorsed by ABVE and many professional organizations as usual and customary Vocational Expert qualifications.
- The full White Paper is provided as a handout.
- For those who have not read *A History of the Vocational Expert*, by Dr. Timothy Field, it is highly recommended.
 - Section headings include: the Early Years (1965-1970), the Rehabilitation Expansion Years (1965-1980), the Evaluation Interval (1975-1985), the Compensation Era (1980-1990), the Methodology Phase (1980-2000), the Daubert Decade (1994-2005), and the Forensic Maturation Years (2000-present).

2020 BPA Language

- 4.1 Qualifications to Provide Service as a VE
 - VEs must be individuals with the ability to provide impartial expert opinions relevant to the evidence contained in the claim file, other evidence provided by OHO, and testimony provided at an ALJ hearing. Areas of expertise must include current knowledge of working conditions and physical and mental demands of various occupations; transferability of skills; knowledge of the existence and numbers of jobs at all exertional levels in the national economy; and involvement in or knowledge of placing individuals with disabilities into jobs.

2020 BPA Language

- To ensure all individuals serving as a VE have the knowledge, skills and ability to provide expert opinions, all VEs must meet and maintain all the following requirements:
 1. At least five years of direct experience providing vocational rehabilitation services to individuals with disabilities,
 2. Current national certification as either a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification (CRCC), or National certification as a Fellow or Diplomate by the American Board of Vocational Experts (ABVE), and
 3. Meet the continuing educational requirements of their national certifications from either the CRCC or ABVE.

2020 BPA Language

- The BPA Holder shall also submit documentation of CRCC or ABVE certification for new VEs working under their BPA at least 30 days in advance of the first hearing in which the new VE will participate or at least 30 days in advance of the interrogatory due date. On an ongoing basis, the BPA holder shall submit documentation of every VE's CRCC or ABVE certification renewal so that SSA always has documentation of the current CRCC or ABVE certification for each VE.

2020 BPA Language

- Transitional Requirements for VEs with Experience as SSA VEs
 - SSA acknowledges that some individuals who are currently performing successfully as a VE for SSA do not meet the CRCC or ABVE certification and continuing education requirements in Section 4.1, above. Individuals who have at least five years of direct experience providing vocational rehabilitation services to individuals with disabilities and at least five years of recent experience serving as a VE for SSA have until March 31, 2025 to meet the certification and continuing education requirements in Section 4.1, above. ~~SSA will not permit any VE who has not met the CRCC or ABVE certification requirement by March 31, 2023 to perform under an SSA VE BPA after that date.~~

2020 BPA Language

- Five years of recent experience serving as a VE discussed above means:
 - A total of 60 months experience within the last 10 years providing service as a VE for SSA, and
 - A total of 30 of those months of experience must have occurred between 2015-2019.
- Any VE working under these transitional requirements shall submit a signed self-certification swearing or attesting that he or she, or any VE working under his or her BPA who does not meet the CRCC or ABVE certification requirements, has the requisite months of experience serving as a VE for SSA required above.

How does one become an SSVE

- Knowledge base
 - Must understand how to use the DOT and Selected Characteristics of Occupations (SCO)
- Job Placement or Practical Experience (labor market research, help with return to work programs, etc.)
 - Certifications cannot make up for actual job placement experience and practical experience.

What are the Medical Vocational Guidelines “Grids”

- What are they?
 - Code of Federal Regulations, Part 404, Subpart P, Appendix 2
 - Reference: https://www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm

Sample portion of the Grid Rules

Table No. 1—Residual Functional Capacity: Maximum Sustained Work Capability Limited to Sedentary Work as a Result of Severe Medically Determinable Impairment(s)

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced age	Limited or less	Unskilled or none	Disabled
201.02	.....do	.....do	Skilled or semiskilled—skills not transferable ¹	Do.
201.03	.....do	.....do	Skilled or semiskilled—skills transferable ¹	Not disabled
201.04	.....do	High school graduate or more—does not provide for direct entry into skilled work ²	Unskilled or none	Disabled
201.05	.....do	High school graduate or more—provides for direct entry into skilled work ²	.....do	Not disabled

Grid Rules

How they apply to SSVE testimony

- How to anticipate when to perform a transferable skills analysis (TSA)

Introduction of SSVE Testimony

- Brief history
 - Social Security Office of Hearing Operations (OHO) is the largest court system in world
 - Biggest consumer of vocational expert testimony
- Setting
 - Administrative Law Judge (ALJ)
 - Informal
 - Non-adversarial
 - Most SSVE's testify by telephone
 - Due to Covid but anticipated to be permanent

METHODOLOGY

Backing up what you say

Transferable Skills Analysis

The Social Security Administration (SSA) has a definition that is a national standard. It is defined in the Code of Federal Regulations [20 CFR 404.1568(d)].

- *(d) Skills that can be used in other work (transferability)*
 - *(1) What we mean by transferable skills. We consider you to have skills that can be used in other jobs, when the skilled or semi-skilled work activities you did in past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. This depends largely on the similarity of occupationally significant work activities among different jobs.*
 - *(2) How we determine skills that can be transferred to other jobs. Transferability is most probable and meaningful among jobs in which*
 - *(i) The same or a lesser degree of skill is required;*
 - *(ii) The same or similar tools and machines are used; and*
 - *(iii) The same or similar raw materials, products, processes, or services are involved.*

Transferable Skills Analysis

- *The Social Security Administration (SSA) has a definition that is a national standard. It is defined in the Code of Federal Regulations [20 CFR 404.1568(d)]. (cont.)*
- *(3) Degrees of transferability. There are degrees of transferability of skills ranging from very close similarities to remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary for transferability. However, when skills are so specialized or have been acquired in such an isolated vocational setting (like many jobs in mining, agriculture, or fishing) that they are not readily usable in other industries, jobs, and work settings, we consider that they are not transferable.*

Transferable Skills Analysis

20 CFR 404.1568 and 416.968; and SSR 82-41

- Generally, the greater the degree of acquired work skills, the less difficulty the claimant will have in transferring skills to other jobs, except when the skills are such that they are not readily usable in any other industries, jobs, and work settings. Reduced RFC and advancing age are important factors associated with transferability because reduced RFC limits the number of occupations an individual can do, and advancing age decreases the possibility of making a successful vocational adjustment. In this regard, we have strict rules regarding transferability for some claimants who are at least 55 years old and even stricter rules for some claimants beginning at age 60.

Transferable Skills Analysis

20 CFR 404.1568 and 416.968; and SSR 82-41 (cont.)

- When a VE is reviewing the evidence for the case before the hearing or in connection with interrogatories, the VE should note whether the claimant has any skilled or semiskilled past relevant work (PRW). If so, the VE should also be prepared to describe the skills. The ALJ may pose hypothetical questions to the VE that assume one or more different RFC assessments, and the VE should be prepared to cite occupations to which the skills may be transferred or to explain why there are no transferable skills. If the claimant is age 55-59 or age 60 and older, the VE must also be prepared to testify about whether there is transferability under the rules for claimants of those ages.

Transferable Skills Analysis

- 20 CFR 404.1568 and 416.968; and SSR 82-41 (cont.)
- A skill transfers when it either allows an individual to master a job immediately or more quickly (positive skill transfer). It does not transfer when it either has no effect or actually hinders obtaining a new occupation (negative skill transfer).
 - Skills decay if they are not used. The general rule is that work performed more than 15 years prior to the report is not relevant for examining skill transfer.

Transferable Skills Analysis

SSA issued POMS DI 25015.017 in October 2014. This was to lay out procedures for SSA employees to follow for performing a Transferable Skills Analysis (TSA). Section D, Step 4 outlines five ways to search using codes from past work history, including GOE codes, MPSMS codes, Work Fields, Occupational Group Arrangements (OGA), and Industry Designation. This added GOE (interests), OGA, and Industry Designation. This is difficult for a VE as interests are not skills.

Worker Traits

- Aptitudes
- Temperaments
- Academic Skills (General Educational Development Reasoning, Mathematics, Language)
- Physical Capacities and Environmental Tolerances
- Level of Education or Training (Specific Vocational Preparation or SVP)

Considerations for Worker Traits can be considered by using the below:

- Work Fields (Technologies/Activities required in an occupation)
- Materials, Products, Subject Matter and Services (MPSMS)
*(Materials or Subject Matter dealt with, or final products/services produced)
- Materials, Tools, Equipment and Work Aids (MTEWA)

Transferable Skills Analysis

Must clearly understand each *occupation/position* the worker has performed in their work history (going back 15 years)

Ideally, a VE would do a job analysis on each job in the work environment where it was performed. However, this is impractical. VEs rely upon secondary sources for job tasks, which in most venues, to include SSA is the *Dictionary of Occupational Titles*.

Transferable Skills Analysis

- Computer program vs. hand
 - OASYS
 - Difference between OASYS and Job Browser Pro (JBP) or online SkillTRAN
 - McCroskey Vocational Quotient System (MVQS)
 - Software for Employment, Education and Rehabilitation (SEER)

***It is important for the VE to understand the program they use and the methods incorporated in the programs.

- For those wishing to do a “hand” TSA, excellent worksheet in the *Rehabilitation Consultant’s Handbook*, (Weed, R. and Field, T. 2012)

Composite Jobs

- Composite jobs
 - When are these needed and why?
 - Examples of frequent composite jobs

JOB NUMBERS

Why it matters where your numbers come from

Job Numbers

- Job numbers are typically derived from the Department of Labor, Bureau of Labor Statistics, OES or Census data.
 - These are organized in occupational groups (OES) or Census groups
 - OES is employer surveyed
 - Census is employee surveyed
 - They are NOT provided at the DOT code level

Where to get job numbers?

- Data from BLS (total OES group)
 - Problems with using full job number for group
- Job Browser Pro
- OASYS
 - Why this method is flawed for testimony
- US Publishing
- ORS
 - Current limits of ORS

Differences between DOT and ORS

- There are several key differences that need to be addressed and recognized by the SSVE

Dictionary of Occupational Titles

- Number of Occupations = 12,761 unique definitions
- Collected based on direct job observation and discussion with the worker and supervisor
- Job Demand Ratings per the 1972 Handbook for Analyzing Jobs and 1991 Revised Handbook for Analyzing Jobs
- An ergonomic method to describe work activity
 - Ratings available for:
 - Physical Demands – Including Strength (n=19)
 - Environmental Conditions (n=14)
 - Specific Vocational Preparation
 - General Educational Development – Reasoning/Math/Language
 - Data – People - Things
 - Work Situations / Temperaments
 - Aptitudes – Related to General Aptitude Test Battery
 - Related Codes: WORK Fields, MPSMS, GOE, DOT Industry

Occupational Requirements Survey

- Number of Occupations = 974 detailed
- Ratings by job incumbents
- Expanded from the Standard Occupational Classification System (SOC) that has 840 occupations (820 civilian).
- Econometric system – Designed for economic aggregation rather than occupational purposes.
- SOC/O*NET code/definitions have no characteristics measuring Strength and many Physical Demands (vs. the DOT).
- Questionable anchor points in many of the ratings
 - SSA cannot use without first addressing their policies
- Data is reported at the SOC level, not the DOT level

ORS and Transferability

- Questions remain on how to determine transferable skills
- Uncertain what replaces the 96 Work Fields and the 378 MPSMS codes
- SSA Rules will have to change for VEs to move from using DOT primarily to ORS data

ORS Considerations

- VEs are using ORS as a source to support opinions to common hypotheticals where they previously did not have data—sit/stand, frequency, and types of interpersonal contact, work review
- At Step 4 ORS data is likely to be too aggregated for transferrable skills analysis for older workers
- Most hypotheticals have multiple restrictions and at step 4 & 5 will require probability analysis to assess the impact on the number of jobs.
- Beistak Supreme Court decision requires VEs to clearly explain methodology.

Why not just use the Full OES group data?

- Example: 211.462-010 Cashier II
 - Related OES Statistical Group: 41-2011 - Cashiers
 - This OES group has 18 specialty occupations (unique DOT codes).
 - Full OES code data 3,596,630
- US Publishing 1,301,177 (Light Unskilled based on 2018)
- OASYS, even distribution method
 - Even distribution $3,596,350/18 = 11,101$ per DOT Title
- Job Browser Pro Methodology 1,779,791
 - Job Browser Pro Estimates 32% are Fulltime, leaving 569,563 jobs

Difference between SSA Regions

- Some regions require local (State or MSA areas) job numbers
- Case law
 - Know what is expected in every region you testify

DIFFICULT Residual Functional Capacities (RFCs)

The real reason SSVE's exist

Sit/Stand Option

- What is considered an accommodation or just the nature of the job?
- Alternating sitting and standing “at will”
 - How often is “at will?”
 - How long is sitting vs. standing vs. walking?
- Use of a cane / crutches
 - Only used to get to workstation?
 - Required to move about work area?
- Stairs, ladders, ropes, scaffolds
 - How many, how often, how likely?
 - Alternatives like elevators, ramps, lifts

Unilateral Restrictions

- Occasional reaching LUE, Frequent reaching RUE
- Dominant vs. Non-dominant Upper Extremity
- Handling
 - Gross manipulation; tools; operating equipment and vehicles
 - Fine manipulation; joystick; power tools
- Fingering
 - Phone dialing; buttons, keyboarding, mouse
- Feeling
 - Texture and temperature; general safety

Unilateral Restrictions (continued)

- One Functional Upper Extremity
- Bi-manual Dexterity
 - Keyboarding; tools; material handling

Hot-Button Jobs

- Sedentary jobs that should really be light
 - Some assembly jobs
- Surveillance Systems Monitor
 - The holy grail of hot button jobs!

Be Forewarned!

- A VE Must be prepared to discuss how their testimony differs from the DOT.
- SSR 00-4p
 - “Identify and obtain a reasonable explanation for any conflicts between occupational evidence provided by VEs or VSs and information in the *Dictionary of Occupational Titles* (DOT), including its companion publication, the *Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles* (SCO), published by the Department of Labor,”
 - The ALJ must “ Explain in the determination or decision how any conflict that has been identified was resolved.”

Questions?

Please use the chat feature to ask your question

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Thank you!

Enjoy the rest of the conference



The International Association of Rehabilitation Professionals (IARP) represents the largest group of Vocational Experts in the United States, including those specializing in Social Security disability cases. To ensure the highest quality of services provided to the Office of Disability Adjudication and Review (ODAR) we offer the following definition of a Vocational Expert contracted with the Social Security Administration.

Per the 2011 AG 11-12 Disability Blanket Purchase Agreement (BPA) SSA-RFQ-11-1206, the definition of a Social Security Vocational Expert (SSVE) is “an individual who is trained and skilled to render impartial opinions relevant to evidence at the hearing level of the Social Security disability claims process. Areas of expertise should include current knowledge of: working conditions and physical demands of various occupations; transferability of skills; knowledge of the existence and numbers of jobs *at all exertional levels* in the national economy; and involvement in or knowledge of placing adult, handicapped workers into jobs.”

In line with the Rehabilitation Counseling Coalition’s (RCC) Statement of Professional Qualifications and Credentials, IARP embraces the following statement: Vocational Experts (VEs) are rehabilitation professionals who possess specialized expertise in business, employment, the workforce, and working with people with disabilities from diverse backgrounds. VEs are professionals committed to performance accountability and continuous improvement through emerging and best practices. Competencies include, but are not limited to: (a) counseling and guidance, (b) knowledge and application of the medical and psychological aspects of disability, (c) knowledge and implementation of vocational testing, assessment strategies and application of transferable skills, (d) working knowledge and integration of labor market data and disability employment policy, (e) working knowledge and application of data from government publications such as the Dictionary of Occupational Titles (DOT), Standard Occupational Classification System (SOC) and Selected Characteristics of Occupations (SCO) (f) skills and ability to match business workforce needs with the evaluatee's skills and talents, (g) current working knowledge of exertional and non-exertional demands of occupations in the labor market, (h) providing services required to develop and implement individualized career plans that assists persons with disabilities in successful employment in a competitive, integrated work environment.

The above knowledge and experiential domains are achieved through education and ongoing professional experience. IARP supports the knowledge and experiential domains identified above as well as the following minimum standards and qualifications for work as a Vocational Expert contracted with the Social Security Administration (SSA) to provide testimony at administrative law hearings.

1. A Master’s degree in Rehabilitation Counseling or other related Master’s degrees such as Counseling, Psychology, Education, Human Services or another behavioral science. National certification as identified in #4 below will demonstrate that one has met educational standards.



INTERNATIONAL ASSOCIATION OF
REHABILITATION PROFESSIONALS

2. At least five years of direct experience providing vocational rehabilitation services to individuals with disabilities. IARP recognizes that no one can be an expert without direct experience in the field.
3. Employment as a principal, employee or private consultant in vocational counseling, vocational assessment, or job placement of people with disabilities including labor market research and communicating with employers regarding the physical and mental demands of occupations.
4. National certification including the Certified Rehabilitation Counselor (CRC), the American Board of Vocational Experts (ABVE) Fellow or Diplomate status, or the Certified Vocational Evaluator (CVE). National certification assures that one has met educational standards, passed an examination, and is bound to a scope of practice and ethical code. Individuals with related degrees may require additional coursework to obtain national certification. All four certifications require passage of a national certification examination, adherence to an ethical code, and continuing education requirements.
5. An SSVE who is teaching in the vocational rehabilitation field at the university or college level or administrators in the field of rehabilitation should also possess the required credentials or qualifications.
6. IARP recommends ongoing membership in a professional organization that provides regular updates in the body of knowledge required of the Vocational Expert.

IARP is aware that the Social Security Administration has extended contracts to some rehabilitation professionals that do not possess or meet all of the above standards but who have provided expert testimony for many years. We acknowledge experience providing vocational rehabilitation services, including job placement and vocational assessment qualifies these individuals to provide vocational expert services to the Social Security Administration. It is IARP's position that from this point forward, it is imperative that new Social Security VEs meet the minimum standards indicated by points 1-6 above.

In closing, to assure competent and appropriate testimony in Social Security administrative law hearings, IARP supports these minimum standards. These standards protect the public by ensuring the provision of ethical and culturally competent professional services. With the implementation of these standards and qualifications, there are mechanisms in place to sanction and/or remove those who fail to meet the required standards of the national certifications, through ethics violation of any certifying body or professional organization to which the party holds a current membership.
