



American Board of Vocational Experts

March 25, 2021

My name is Terry P. Leslie, and I am the President of the American Board of Vocational Experts. The American Board of Vocational Experts consists of approximately 500 professionals who are vocational rehabilitation counselors, physical therapists, psychologists, and medical professionals. We are one of only two certifying organizations whose members are qualified to work as SSA Vocational Experts.

As you are aware, the Social Security Administration utilizes the Dictionary of Occupational Titles to assist in their Social Security disability determinations. The foundation for compiling data within the Dictionary of Occupational Titles is the Handbook for Analyzing Jobs. It is our understanding, based on the information disseminated on the Bureau of Labor Statistics' website, that the compilation of the Occupational Resource Survey (ORS) is to ultimately replace the outdated Dictionary of Occupational Titles (DOT) and to assist SSA Administrative Law Judges (ALJ) in their determinations using the medical-vocational rules at Step 5. Step 5 is where SSA VE's testify regarding the characteristics of the claimant's past employment, transferability of skills, and occupations which are within the hypothetical scenarios of ALJ's. It is our understanding that the results of the ORS will be the foundation for our opinions in the future.

You have requested comments that:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

Enhance the quality, utility, and clarity of the information to be collected.

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

On behalf of the American Board of Vocational Experts and our members, we would like to make the following comments:

1. The Handbook of Methods for the ORS does not include a definition of sedentary work. It includes light, medium, heavy, and very heavy, but sedentary work is not defined other than to be mentioned in the definition of light work.

2. General Educational Development consists of levels of functioning in Reasoning Development, Mathematical Development and Language Development. The determinations of these various levels are outlined in the Handbook for Analyzing Jobs; however, this data set is missing from the ORS. SSR-01p specifically describes the use of these levels by the Social Security Administration in the determination of educational classifications within their disability program. This information is also outlined in 20 CFR 404.1564, and 20 CFR 416.964. It is normal for SSA VE's to receive hypothetical questions regarding the Reasoning Development, Mathematical Development, and Language Development of potential occupations a hypothetical claimant could perform. The ORS currently does not allow a Social Security VE to testify in these areas as required.
3. The Social Security Administration has their own rules and regulations which are not consistent with other uses of the data being gathered. For example, the Handbook for Analyzing Jobs outlined the collection methods for determining the aptitudes associated with various occupations. It appears that this data set is not being considered in the ORS and it is imperative in determining transferability from one occupation to another.
4. All of the individuals who apply for Social Security disability benefits allege that they have a disability which impacts their ability to work, but the ORS, in its current format, is not specific enough in the collection of data to determine the functional requirements in many areas. For example, there are no specific measurements of Visual Acuity. The Handbook for Analyzing Jobs gives specific definitions for Near Acuity, Far Acuity, Depth Perception, Accommodation, Color Vision and Field of Vision, which need to be included with the ORS.
5. Nationally it has been standard for ALJ's to include questions to the SSA VE which focus on the number of days an employee can be absent, or the amount of time that an employee can be off task, and still maintain substantial gainful employment. These questions should be included in the ORS data collection.
6. There does not appear to be one standard form or methodology for the collection of this data as our members are seeing data collection sheets with marked differences from various states.
7. The data that has been collected to date is not functional by the vocational rehabilitation counselors as multiple items are unable to be searched at a time.
8. We understand that when this initiative started, vocational rehabilitation counselors, SSA VE's, and other professionals who use the Dictionary of Occupational Titles daily had a voice in the collection of this data, but over the years this has changed and the process, to be honest, has broken down. The focus currently is to obtain occupational information directly from employers and not utilizing the services of trained professionals. With all

due respect, obtaining the information only from employers will not result in valid results as the information is not being obtained from trained professionals observing and measuring how the occupations are being performed. Nor is the information coming from the employees performing the occupation. Our membership regularly completes job analyses and function studies and can attest to the fact that the information that we receive from employers regarding the functional requirements of occupations is generally not accurate.

9. The Social Security Administration ruled that SSA VE's are unable to use the Occupational Information Network (O*Net) as a source in their disability determination process since the O*Net focuses on broad groups of occupations and not specific occupations. The DOT has 12,761 defined occupations with O*Net having 974 groups of occupations. It appears that the ORS is focusing on 820 SOC groups of occupations, meaning that it will be less comprehensive than the O*Net, which SSA has already ruled cannot be used for our purposes.
10. Due to the limited nature of the data collection not only are vocational experts unable to use O*Net, but the Occupational Outlook Handbook (OOH) includes a disclaimer that we are unable to use the wage data within it as it is not specific enough to use in litigation. Based on prior rulings and decisions made by SSA and the Bureau of Labor Statistics, unless the ORS is occupation specific it is anticipated that our members, including SSA VE's, will not be able to use the results of ORS.

As an organization, we understand that you have received comments from many people and companies, whom as vocational experts we interact with on a regular basis and who have given you detailed suggestions. We would strongly request that you implement the suggestions made by Jeff Truthan of Skilltran, and others who are stakeholders in the results. As vocational experts who use the DOT daily and testify in Social Security disability hearings, there is a strong concern that the ORS as it is being crafted will not be functional unless these changes are made.

Respectfully,


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