



Center for Public  
Representation

April 2, 2019

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Ms. Nancy A. Berryhill  
Acting Commissioner  
Social Security Administration  
3100 West High Rise Building  
6401 Security Boulevard  
Baltimore, Maryland 21235

**RE: Removing Inability to Communicate in English as an Education Category, RIN: 0960-AH86**

Dear Ms. Berryhill:

Thank you for the opportunity to submit comments on behalf of the Center for Public Representation regarding the proposed rule from the Social Security Administration (SSA) on Removing Inability to Communicate in English as an Education Category. CPR is a national legal advocacy organization that promotes the full inclusion of people with disabilities in all aspects of life. We directly represent clients to address Social Security Disability Insurance and Supplemental Security Income (SSDI/SSI) eligibility in Western Massachusetts. The proposed rule creates an unnecessary delay and harmful burden for people with disabilities with limited English proficiency and further taxes the resources of the SSA. We urge you to withdraw the proposed rule.

The proposed rule seeks to eliminate the inability to communicate in English as a factor to be considered by the agency at Step 5 of the disability analysis. At Step 5, a claimant's residual functional capacity (RFC) is considered by the adjudicator to determine whether the claimant has the RFC, given the individual's age, education and work experience, to make an adjustment to other work. When a determination proceeds to Step 5 the adjudicator has determined, at Step 4, that the claimant cannot return to her or his past work.

The current Medical-Vocational Guidelines (referred to as the "Grids") take into account the interaction between age, education, work experience, and RFC. The inability to communicate in English is an educational category that results in a finding of disability only in the following Rules:

- Rules 201.17 and 201.18 for individuals whose age is 45-49, who are limited to sedentary work and who have either unskilled or no past relevant work experience.
- Rules 202.09 and 202.10 for individuals aged 50-54 who are limited to light work and who have either unskilled or no past relevant work experience.

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The NPRM states that “claimants who cannot read, write, or speak English often have a formal education that may provide them with a vocational advantage.” It is my personal experience representing social security claimants that this statement belies the reality that these individuals face. Mainly they have worked in occupations requiring lower skills; such as a, farm worker, laborer, janitor, cook, or housekeeper. None of these jobs can be performed at the sedentary or light level of exertion. And as stated above, at Step 4, the Agency has already determined that the claimant cannot perform those past jobs.

Moreover, at ages 45-54, any benefit from any formal education they may have had has apparently failed to leverage an advantage for these low-skill workers. The same can be said for claimants, particularly women over the age of 50, who have been homemakers and not had any recent connection to the workforce. These individuals face great difficulty, as adverse factors of age, work experience, and a limiting RFC combine with the inability to communicate in English resulting in an insurmountable barrier in adjusting to other work.

The Grids were designed to create a more effective and reliable disability determination process. Removing the inability to communicate in English will only cause delay as a claimant that would have been approved at the Initial or Reconsideration levels will have to wait months or years to go before an Administrative Law Judge to receive much-needed benefits.

The proposed changes in the rule serve as a needless attack on people with disabilities with limited English proficiency, and the justifications fail to reflect work-force realities. This rule will only cause deserving claimants who already face an uncertain future to languish in uncertainty while dealing with serious impairments. The rule will also cause the already fiscally-strapped Social Security Administration to face an even longer backlog of cases. We urge you to withdraw the proposed rule. Please feel free to contact Santina Sciaba-Douglas at [ssciaba-douglas@cpr-ma.org](mailto:ssciaba-douglas@cpr-ma.org) with any question about these comments, or if you would like additional information.

Sincerely,

Santina Sciaba-Douglas, Esq.  
Center for Public Representation