

# Welcome

## Practice Opportunities: Becoming a Social Security Vocational Expert

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# Learning Objectives

- Basic eligibility to become a Social Security Vocational Expert
- Social Security Disability sequential evaluation process and the critical role of the VE.
- Participants will be to understand the scope of vocational experience requirements, the steps involved to meet qualifications to become a VE as a federal contractor required.
- Participants will be able to identify opportunities to incorporate VE services into their vocational practice.

# Basic Eligibility to become a Vocational Expert in Social Security Disability Hearings Cases:

- Master's Degree in Rehabilitation Counseling or counseling-related field
- Advanced rehabilitation certification (**CRC** or **ABVE**)
- Five years experience providing vocational rehabilitation services:
  - Vocational assessment of work history and residual functional capacity
  - Knowledge of foundational vocational rehabilitation materials, terms and definitions such are described in the *Dictionary of Occupational Titles* (DOT), *Selected Characteristics of Occupations* (SCO), *Revised Handbook for Analyzing Jobs* (RHAJ)
  - Job placement services with disabled clients in variety of employer settings
  - On-site job analysis experience, knowledge of employer hiring practices
  - Review and interpretation of employment statistics from US DOL Bureau of Labor Statistics

# Why Become a Social Security Vocational Expert?

- SSVEs provide input affecting benefits in more than 500,000+ claims per year
- SSVE testimony affects more than **\$193 billion per year** in cash payments
- Disability determinations affect the financial **viability of millions of families**
- **Claimants are counting on justice** for adjudication of their claim
- **Judges are counting on accurate and reliable** vocational testimony on which they will base their life-altering decisions
- **Advocates are counting on sensibility** of SSVEs to interpret the DOT in today's context with realistic employer perspectives and job statistics.

*If you or someone you love became disabled, you would want the best vocational expert evaluating the information and answering questions.*

# Differences between SSA vs. other VE Work:

## SSA Vocational Expert (VE)

- Works as Social Security BPA contractor (or under another BPA Contract Holder) providing unbiased *independent testimony*.
- Flat rate **\$107.05 - \$132.67 each** (2023)
- Hearings often  $\leq 60$  minutes; 3-6/day; often docket days are 8:30am - 1:00pm
- VE works from home by phone & computer
- Granted electronic access to records
- Reviews *only* SSA forms listing past work
- Hearing prep is listing DOT, SVP and PD of past work plus computer access to job numbers published by BLS or software
- VE testimony often  $\leq 10$  minutes total including cross-exam by representative

## Other Vocational Expert

- Hired per case by plaintiff or defense counsel
- Paid retainer by law firm plus hourly rate for services, usually separate rate for testimony and travel time/expenses
- Review and summary of voluminous medical records and medical depositions
- Extensive assessment interviews with clients including aptitude and interest testing
- Labor market survey specific to client
- Interaction with medical providers for approval of potential work identified
- Depositions and extensive trial preparation
- Acceptance as expert trial testimony



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# Your VE Transferable Skills

## Vocational Skills

- Obtain work history
- Review DOT, SVP, PD
- Identify potentially transferable skills
- On-site employer visits, job analysis
- Prevailing environmental conditions
- Communication with employers
- Current employer expectations of workers
- Onboarding and training guidelines
- Understanding of entry level occupations

## Social Security VE Setting:

- Review work of last 15 years
- Review DOT, SVP, PD
- Identify potentially transferable skills
- Describe range of work settings
- Outline physical working conditions
- Describe employer tolerances
- Explain employer expectations
- Orientation content and timeframes
- Categories with large national workforce

# What you will not do as a Social Security VE

- Be hired to represent one party over another party
- Market yourself for case work
- Interview claimants about their work history
- Conduct aptitude or interest testing
- Review medical records or depositions
- Communicate with physicians, therapists or other providers
- Generate reports or other correspondence
- Be subjected to depositions
- Attend proceedings with any jury present

# BPA Contractor Process

- BPA contract process is announced in FedConnect (Contractor Opportunities)
- Last opened October 2019 for 2020; contract bids for 5 year period
- Next open contract anticipated for late 2024
- VE meeting eligibility can begin working under current BPA holder
- Any BPA holder may have VE(s) working under their contract
- Requires registering with System for Award Management (SAM.gov)
- Extensive background check and suitability approval
- Approval for accessing Electronic Records Express (ERE System)
- Annual security training through SSA
- SSA provides no training.
- **IARP offers Social Security Vocational Expert Training available.**



# What are Social Security's Disability Programs?

## Title II (SSDI)

- Disability benefits may be paid to people who work in "covered" employment or self-employment
- Employment taxes pay for "earner" to become "insured" for disability benefits.
- Benefits may also be paid to:
  - disabled adult children of insured workers who retire, die, or are themselves disabled
  - Disabled widows and widowers of insured workers.

## Title XVI (SSI)

- Payments of Supplemental Security Income (SSI) to individuals who are
- age 65 or older, or blind or disabled, and who have limited income and resources.
- Title XVI (SSI) payments are funded from general tax revenues and not from Social Security taxes,
- Eligibility for Title XVI programs is not based on payment of Social Security taxes.

# Social Security's Disability Claim/Review Process

There are four levels in the SSA administrative review process:

- **Initial determination** (State Disability Determinations Service/DDS)
- **Reconsideration** (if not approved initially, claimant asks for reconsideration)
- **ALJ hearing** (claimant asks for hearing- ***Vocational Expert required***)
- **Appeals Council** review (if not approved at ALJ level)

After they complete the administrative review process, claimants who are still dissatisfied with our final decision generally have the right to appeal to federal district court.

# Social Security's 5-Step Sequential Evaluation

- **STEP 1:** Is the claimant engaging in substantial gainful activity?  
*(Are they earning  $\geq$  \$1,470/month gross)*
- **STEP 2:** Does the claimant have a "severe" impairment? *(medical treatment evidence documenting ability to function)*
- **STEP 3:** Does the claimant have an impairment(s) that meets or medically equals a listed impairment in the Listing of Impairments?  
*(special criteria list for impairments to meet automatic approval)*
- **STEP 4:** Can the claimant do past relevant work? **VE testimony**
- **STEP 5:** Can the claimant do other work? **VE testimony**

# Where does a Vocational Expert (VE) fit in?

- VEs become involved at the ALJ Hearing level to answer ALJ's questions
- VEs provide their expertise in rehabilitation services regarding :
  - Review of claimant's work history
  - vocational analysis of that history based on the DOT, physical demands and SVP
  - **At Step 4**: opinion evidence answering questions about whether a *"hypothetical individual"* could **return to past work** based on a series of limitations the ALJ describes
  - **At Step 5**: opinion on whether **there is any work** the *"hypothetical individual"* could perform and provide at least three examples of work along with estimates of how many employed in each example
  - additional answers to questions from the claimant's representative

# Key Terms & Definitions

**PII:** Personally-Identifiable Information = *Anything containing info identifying a claimant name, initials, SSN, address, date of birth, phone, etc.*

**DOT:** Dictionary of Occupational Titles = *Current standard for classifying work*

**SVP:** Specific Vocational Preparation = *Training/Preparation time for work competence*

**SCO:** Selected Characteristics of Occupations = *Environmental factors of occupations*

**PRW:** Past Relevant Work = *Full-time or SGA level work in 15 years before onset*

**SGA:** Substantial Gainful Activity = *Monthly income SSA considers as gainfully working*

**ALJ:** Administrative Law Judge = *Determines disability at hearing level*

**VE/SSVE:** Vocational Expert = *Provides vocational opinion testimony and statistics*

**ME:** Medical Expert = *Provides medical opinion testimony*

**DOL:** US Department of Labor = *Publisher of DOT and overseer of BLS*

**BLS:** Bureau of Labor Statistics = *Unit generating statistics on occupations*

**Grid Rules:** Medical-Vocational Guidelines = *Tables to decide if disability is met*

**BPA:** Blanket Purchase Agreement = *The contract and performance criteria for SSVEs*

## SSVE TOOLS:

- Vocational Expert Handbook
- Dictionary of Occupational Titles (DOT)
- Selected Characteristics of Occupations Defined in the DOT (SCO)
- Secure (not shared) computer
- Secure internet access; antivirus software
- Wire (land line) phone service
- Bureau of Labor Statistics (BLS)
- SSA Electronic Records Express (ERE)
- Adobe Acrobat DC (Adobe)
- Microsoft Excel
- Professional Continuing Education

## SSVE MECHANICS:

- Maintain professional membership
- Updated computer, fast internet service
- Updated anti-virus security regularly
- Online DOT software or related
- Online or PDF SCO
- Online or PDF GOE
- Online BLS (ORS, OEWS)
- ERE access for VEs
- Adobe for reading case files
- Reliable phone connection with mobile phone backup
- Quick search/sort for reference jobs

# SSVE: Security & ethical requirements

- **Maintain a secure workspace to protect PII!**
  - No PII being left out in your home or office
  - No sharing of laptops or computers used for researching/storing PII records\*
  - No emailing regarding specific cases using claimant names, SSNs, initials, etc.
  - No voice messages leaving claimant names or SSNs
  - No fax cover pages referencing names or SSNs
- **Security is also an ethical requirement**
  - Password protection/encryption of all electronic devices and files containing PII\*
  - Shredding of printed documents with PII; electronic shredding of online PII files after hearing\*

\* *Code of Professional Ethics for Certified Rehabilitation Counselors, sections B3(a), B3(e), B6(b) and D1(a) should be reviewed to ensure compliance with securing PII both physically and electronically. Please review these sections of the CRC code.*

# The SSVE Hearing Preparation Process

## Using Electronic Records Express (ERE)

- ALL **SSVEs have access to the ERE** system for case information
- You MUST use a **secure internet connection** (password protected) to enter
- Case information is **personally identifiable information** (PII).
- You MUST be in a secure and confidential work setting to safeguard the PII you will access and analyze. Especially CRITICAL for work-by-phone and work-at-home settings:
  - This is BOTH an SSA requirement and an ETHICS requirement for rehabilitation professionals recorded in the CRCC Code of Professional Ethics for Certified Rehabilitation Counselors:
  - B3(a) Information (not) shared with others and work environment)
  - B3(e) Confidential work settings (securing documents; encryption; access to computers)
  - B6(b) Records and documentation; secure location (downloading files for review; password protections, etc.)



# The SSVE Hearing Preparation Process

## ***MECHANICS of ERE***

- Uploading VE resume to E section 20 days prior to hearing
- Use your CV Summary (1-2 pages) not full-length CV
- Save ERE Tracking confirmation that upload occurred
- Save ERE timestamp that tracking occurred
- Review E Section ONLY, “Disability Related Development”
- Select all docs that refer to employment (3367, 3368, 3369, 820/821)
- Often several versions of each form exist so check all versions
- PDFs are searchable for quick reference to review exhibits during hearing

# Evidence VE reviews: “E” Section of ERE file

## *Past Relevant Work: Last 15 years of work*

- In ERE, go to the individual case then the E section
- Do not review F Section (medical records only) as ALJ will pose restrictions in their hypothetical profile.
- Look for the following SSA forms and click each to select them:
  - **SSA-3367** Disability Report Field Office, only Sections 4, 5 and 6
  - **SSA-3368** Adult Disability Report, only Sections 4, 5 and 6
  - **SSA-3369** Work History Report, all sections
  - **SSA-820/821** Work Activity Report, all listed employment only
- Click the box next to each of the above, then click “Download to PDF”
- In either minutes or a few days, you will receive an email from SSA that “Pickup Files” are ready
- Each case in “pickup files” is referenced by last name and last 4 SSN
- Click to download to your system.

# The SSVE Hearing Preparation Process

## *Case Analysis:*

- Review **downloaded ERE** file's vocational documents
- You are looking for **descriptions of work** and timeframes for that work
- ALJs are interested in PRW jobs (last 15 years, FT, SGA level)
- Note any generic job titles that are not described, i.e. “operator” or “rep” or “tech” or “helper”.
- In hearing, listen for descriptions of that work from the claimant.
- You can ask the ALJ if you may inquire to clarify that job duties

# SSVE Case Analysis

Using your preferred DOT software:

- Look up the likely DOT title and read the description.
- Choose the entry which is the **best match to the description from claimant**
- If claimant performed the work at a different physical level than the DOT, inform the ALJ in your testimony.
- One classic example is “Certified Nursing Assistant”:
  - DOT 355.674-014, MEDIUM, SVP 4
  - Many CNAs function in the HEAVY category based on maneuvering/positioning patients unable to assist and there are dealing with patient’s full body weight.

# SSVE Case Analysis

## Differential Analysis

- Various generic job titles may sound the same so you will review the potentially applicable titles to differentiate the best match
- Example is “Cashier”
  - 22 DOT entries for cashier
  - SVP ranges from 2 to 9
  - Physical demands range from sedentary to heavy

# SSVE Case Analysis

## Composite Jobs

- Some jobs have a narrow ranges of duties
  - All duties may be encompassed within one DOT title
  - Example: “Cashier-Stocker” where the claimant both stocked and cashiered.
  - Could be “Sales Clerk” DOT 290.477-014, LIGHT, SVP 3 or
  - Could be “Stock Clerk” DOT 299.367-014, HEAVY, SVP 4
  - From reading the 3369 and listening to testimony, you will choose the best match
- Other jobs have a broad range of duties and may be “composite”
  - Duties overlap several DOT titles
  - Useful to elicit further testimony about proportional distribution of job duties
  - More physically demand DOT title classification controls

# SSVE Case Analysis

## Jobs not found in the DOT

- The DOT is widely acknowledged to be an out-of-date document
- Many DOT titles have not been updated since 1977, 1986 or 1991
- Other job titles in the modern economy have no DOT representation
  - Internet software engineer/online technical support
  - User Experience Designer
  - Webmaster
  - Social media director
  - Blogger/Vlogger
  - Influencer
  - Podcaster
- Modern titles are nearly always a composite requiring VE explanation of both an adaptive description and SVP equivalent

# SSVE Required Analytical Tools

## *Dictionary of Occupational Titles*

- SSA Disability law and evaluation were **built upon on the DOT**
- SSVEs will keep notes of the claimant's PRW
- Regulations require the SSVE to note the **DOT TITLE**, DOT **CODE NUMBER**, **SVP** LEVEL and **PHYSICAL DEMAND** LEVEL per DOT
- Keep in mind that matching descriptions of the PRW work matter more than matching job titles
- Many occupations have evolved considerably since the that DOT entry was last updated
- Your DOT software will show you the “DLU” or “date last updated”



# SSVE Required Analytical Tools

## *Selected Characteristics of Occupations (SCO)*

- Detailed analysis of widest range of physical demands, skill level, working environment, and typical exposures at work
- Like the DOT, analysis is out of date
- SSA is adopting the Occupational Requirements Survey (ORS) to supplement, augment and ultimately replace SCO
- ALJs will often include in their hypothetical profile limitations defined in the DOT and SCO. SSVEs need to interpret whether requirements described are consistent with the current practices and working conditions for those occupations. Point out where modern information is substituted.

# SSVE Other Analytical Tools

## Other options

- SSVEs are required to use DOT to classify past work
- SSVEs must have understanding of BLS data on occupational employment
- Become familiar with the tools options available to you
- Choose a methodology and be prepared to defend it
- It is NOT sufficient to merely state “based on my experience” as both attorney and non-attorney representatives are challenging assertions more
- Be prepared to explain what your experience is with the tools you use, and how that information as an accepted source by other experts besides yourself
- If you do not know – find out

# SSVE Other Analytical Tools

## The Occupational Requirements Survey (ORS)

- This data is the future of SSVE detailed job requirements analysis
- ORS provides useful statistical analysis of data as reported by employers
- Areas covered include details on:
  - Frequently questioned physical demands
  - Educational requirements
  - Environmental requirements
  - Social interactional requirements
  - Cognitive and mental functions
- ORS is not yet a required tool though that is anticipated in the future
- ORS data expresses percentages of the workforce for most categories
- ORS data is used in conjunction with other Occupational Employment Survey

# SSVE Field Experience & Employment Practices

## Staying Current on Employer Practices

- Active ongoing job placement experience is optimal
- Field visits to employers for general information gathering is encouraged
- Survey of “trends in hiring” “trends in accommodation requests” and “understanding the New Workforce in America” can open discussions
- Visits to Career One-Stop Centers
- Visits with employers at area Job Fairs
- Professional organizations with journal articles i.e. (IARP), Society for Human Resource Managers (SHRM)
- “Google it!”

# SSVE Checklist:

## Preparing Data for Reference in Hearing

- ✓ Work history analysis with DOT codes, SVP codes, physical demand levels
- ✓ Reliable source of quick reference DOT/SVP/SCO information
  - ✓ Many software options available
- ✓ Reliable source of employment numbers based on US Department of Labor and Bureau of Labor Statistics
- ✓ Quick reference sheet of widely available occupations for the following categories of employment profile the ALJ may request:
  - ✓ Sedentary unskilled jobs (SVP 1 or 2)
  - ✓ Sedentary semi-skilled jobs (SVP 3 or 4)
  - ✓ Light unskilled jobs (SVP 1 or 2)
  - ✓ Light semi-skilled jobs (SVP 3 or 4)
  - ✓ Medium unskilled jobs (SVP 1 or 2)
- ✓ ALJs are looking for the largest number of jobs matching the profile used.

# The Critical Role of the SSVE:

- An **impartial** expert contracted by the government
- An **independent** expert regardless of fees paid by the government
- Knowledgeable in **current real world** employer practices, standards, tolerances and characteristics of workplace settings
- Knowledgeable in the **physical and mental demands** of occupations
- Knowledgeable in the **skill levels** of jobs both in terms of **DOT/SVP** classification and **current real world** job prerequisites/training time
- Knowledgeable in both SSA's definition of **transferable skills** and **current real world** transferability factors
- Knowledgeable in job numbers and use of **accepted** number sources

***Remember that your testimony has real financial impact on claimants!***

# The “Big” SSVE question:

## Transferability of Skills

- Many ALJs simply ask “are there transferable skills?” without considering *what makes the skills transferable to operationalize them elsewhere*
- **SVP 1 or 2 jobs have no transferable skills.**
- **SVP 3 or 4 jobs have no significant transferability.**
  - Transferability means that on a FULL TIME BASIS, an individual has the **physical capacity** to operationalize the skill, the **mental capacity** to operationalize the skill, and the **training** necessary to operationalize the skill.
  - Transferable to *what physical demand level?*
  - If you say there are transferable skills, explain what they are and how they transfer.

## Vocational Adjustment to other semi-skilled or skilled work

- How long would it take to become sustainably productive in the new environment?
- How long to learn new procedures? New products? New services? New equipment?

# More SSVE *more testimony questions*

- **Time Off-Task:** This is a favorite with claimant representatives. Someone somewhere promoted to them that being off-task “15% of the time” is the magical limit of employer tolerances. In fact, it depends on the characteristic of the work, the activity patterns of the work, and the noticeability of the off-task behavior to the coworkers and supervisors. Off-task in a production line can be a disaster. Off-task waiting for the delivery truck to arrive may be no big deal. Off-task in a library may be nearly undetectable. The context should inform your opinion.
- **Working around the public, coworkers and supervisors:** The DOT does not address these issues. Your use experience and any other reference materials you find reliable.



# SSVE *relevant testimony*

- When asked by the ALJ, **characterize the work history** (from the exhibit file and from live testimony) according to the DOT title, DOT code, SVP number, SSA skills category (“unskilled SVP 1-2; semi-skilled SVP 3-4; skilled SVP 5+”), and by physical demand category (sedentary, light, medium, heavy, very heavy).
- SSA acknowledges that **the DOT is out of date**. If the DOT description does not match how the work is currently performed, or as the claimant performed it, **say so**. That is key information.
- **Make no assumptions** about whether work listed is SGA level or not. The ALJ will determine to exclude what is not relevant.
- Focus on **ONLY THE ALJ’S hypothetical** description of abilities and not on the claimant’s testimony.

# SSVE *job alternatives, job numbers*

- When the ALJ asks you to identify *other work* the hypothetical person can perform, ***please cite real jobs that currently exist in the real world.***
- Just because a job is listed in the DOT and BLS tracks OES groups where the job would otherwise belong **does not mean** it is an appropriate choice.
- Before offering a job as an alternative *other work*, consider:
  - Does the job exist today? Have I placed anyone in that job ever? How differently is the job performed today compared to the date that job was last updated in the DOT?
  - Also consider whether that job in the DOT is now simply a component of a modern job.  
Example: Silverware Wrappers.
- Whatever your methodology for citing job numbers and their sources, be prepared to defend your method
- IARP will offer upcoming webinars to address this special topic

# SSVE *other testimony questions*

- **Absenteeism.** Frequently SSVEs are asked to define what level of absenteeism employers will tolerate. Use your knowledge, experience and any outside sources. Absenteeism is an *attendance issue*, as is arriving late for work and leaving work early. Many employers consider these as “*occurrences*”.
- **Sit/Stand Option/ “At-Will”:** At-will *could mean* being up and down every other minute. It could mean being up 5 minutes every hour. Define the timeframes. Sit/Stand options depend on the typical duties, the typical workstation, and activity patterns for that occupation. Example: Waiter at a breakfast restaurant likely has no opportunities to sit during morning breakfast rush.

# SSVE Handling Challenges to Testimony

## Challenge Topic

- “Wrong DOT title/code/SVP”
- Modern post-DOT job “*cannot classify*”  
i.e. “cloud administrator/architect”
- “*The hypothetical said ‘job with 1-3 steps’; that (alternate job) has more steps so must be eliminated*”
- “*That (alternate job) does not exist in claimant’s area*”
- “*You are saying the job numbers are all for that one DOT title/code?*”
- “*Have you ever placed a person in the job you just cited?*”

## Response Considerations

- Possible multiple similar DOTs for job. Review the description detail; compare to claimant testimony
- Find best equivalents; maybe composite of several and interpret as “best approximation” from DOT
- Your interpretation of hypothetical was “unskilled” so SVP 1-2 was chosen. “Steps” have multiple action sequences within them.
- Regulations allow jobs in US economy. ALJ will also correct claimant/appointed representative
- Job title/DOT identified is representative of type, duties and requirements matching hypothetical. Cite your source/methodology based on BLS
- If not, cite settings you have placed clients in which are substantially similar to the job.

***If you would like to become a Social Security Vocational Expert,  
contact the Contracting Office Representative (COR) at:***

- Region 1 Boston ..... (888) 870-7578: CT, ME, MA, NH, RI, VT
- Region 2 New York ..... (212) 264-4036: NJ, NY, PR, USVI
- Region 3 Philadelphia ..... (215) 597-9980: DE, MD, VA, WV, DC
- Region 4 Atlanta ..... (404) 562-1182: AL, FL, GA, KY, MS, NC, SC, TN
- Region 5 Chicago ..... (877) 800-7576: IL, IN, MI, MN, OH, WI
- Region 6 Dallas ..... (214) 767-9401: AR, LA, TX, OK, NM
- Region 7 Kansas City ..... (888) 238-7975: IA, NE, KS, MO
- Region 8 Denver ..... (888) 397-9803: CO, MT, UT, ND, SD, WY
- Region 9 San Francisco ..... (866) 964-7584: AZ, CA, HI, NV
- Region 10 Seattle ..... (866) 931-9031: AK, ID, OR, WA

Questions?

Thank you!

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