

**Addendum to the Supporting Statement for the SSA-3368
Disability Report - Adult
20 CFR 404.1512 and 416.912
OMB No. 0960-0579**

Background

This is a request for modification of the Form SSA-3368, Disability Report - Adult, related to new regulation, Removing the Education Category - Inability to Communicate in English - from the Disability Determination Process, RIN 0960-AH86. This new regulation is eliminating one of the five existing education categories, namely the “inability to communicate in English” (20 CFR 404.1564 and 416.964). The new regulation does not affect the other educational categories. We amended the Medical Vocational Guidelines in 20 CFR Part 404, Subpart P Appendix 2, as appropriate, under the new regulations.

The effect of this regulation is to remove the consideration of English proficiency when determining a claimant’s education category. We will consider the claimant’s actual education attained without regard to the claimant’s proficiency in the use of English and assign the claimant to one of the four remaining education categories, as appropriate: illiteracy; marginal education; limited education; and high school education and above.

Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act require SSA to consider a claimant’s education when determining an adult’s claim of disability. Sections 205(a) and 1631(d)(1) of the Act authorize SSA to establish procedures for collecting and verifying relevant evidence. We collect such evidence using Form SSA-454-BK, Continuing Disability Review Report. The information we collect assesses a claimant’s level of education, and assigns the claimant to a specific education category.

Revisions to the Collection Instruments

SSA is making the following revisions to Form SSA-3368 due to the new regulation, RIN 0960-AH86:

- **Change #1:** We are revising question 5.A. to include parenthesis after the question to explain to select 12, if you have education equivalent to high school from another country. In addition, we are requesting the Name of the school and mailing address.

Justification #1: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we consider the claimant’s formal education without regard to their English proficiency. Therefore, we are revising the question to capture education completed in foreign countries.

- **Change #2:** We are revising the question about special education in 5.B. as follows:

- o We revised the wording of the question to, “Did you receive special education, such as through an Individualized Education Plan (IEP) or equivalent education?”
- o We added a question to determine the dates attended from and to (MM/YYYY).
- o We added a question for the last grade you received special education with check boxes for grades pre-K through 12.
- o We added a question for the reason(s) for IEP or equivalent education, with the option to select same as 5.A. or different from 5.A.

Justification #2: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we may need to develop for school records to document the claimant’s literacy.

- **Change #3:** We added the below three questions to collect information about the ability to read and write a simple message in any language, including yes and no boxes for 5.E. and 5.F.:
 - o 5.D. What written language do you use every day in most situations (at home, work, school, in community, etc.)?
 - o 5.E. In the language you identified in 5.D., can you read a simple message, such as a shopping list or short and simple notes?
 - o 5.F. In the language you identified in 5.D., can you write a simple message, such as a shopping list or short and simple notes?

Justification #3: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we need to document a claimant’s literacy in any language.

- **Change #4:** We are revising the Privacy Act Statement on this form.

Justification #4: SSA’s Office of the General Counsel is conducting a systematic review of SSA’s Privacy Act Statements on agency forms. As a result, SSA is updating the Privacy Act Statement on the form.

- **Change #5:** We are updating the Paperwork Reduction Act Statement on this form.

Justification #5: We are revising the PRA statement to reflect our current boilerplate language. The current language, which dates back to the last reprint of the form, is now outdated.

SSA is making the following revisions to the EDCS Screens for the SSA-3368 due to the new regulation, RIN 0960 AH86:

- **Change #1:** We are revising the question, “What is the highest grade of school that you completed?” to include parenthesis after that read, “Select 12, if you have education

equivalent to high school from another country.” In addition, we are requesting the approximate date completed (MM/YYYY); Name of school; and mailing address.

Justification #1: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we consider the claimant’s formal education without regard to their English proficiency. Therefore, we are revising the question to capture education completed in foreign countries.

- **Change #2:** We are revising the question in the Special Education section as follows:
 - We revised the wording of the question to, “Did you receive special education, such as through an Individualized Education Plan (IEP) or equivalent education?”
 - We added a question to collect the last grade you received special education, with drop down box to select grades pre-K through 12.
 - We added a space to input reason(s) for IEP or equivalent education.

Justification #2: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we may need to develop for school records to document the claimant’s literacy.

- **Change #3:** We added the below three questions to collect information about the ability to read and write a simple message in any language in the Language Information section:
 - What written language do you use every day in most situations (at home, work, school, in community, etc.)?
 - Including a dropdown box to select a language, and a blank space to input other language if not listed.
 - In the language you identified above, can you read a simple message, such as a shopping list or short and simple notes?
 - Yes/No/Not yet answered check boxes
 - In the language you identified above, can you write a simple message, such as a shopping list or short and simple notes?
 - Yes/No/Not yet answered check boxes

Justification #3: We are making this change to conform to the revisions to the education categories, namely the “inability to communicate in English” in 20 CFR 404.1564 and 416.964. In accordance with the new rules, we need to document a claimant’s literacy in any language.

- **Change #4:** We are revising the Privacy Act Statement on the screen package.

Justification #4: SSA’s Office of the General Counsel is conducting a systematic review of SSA’s Privacy Act Statements on agency forms. As a result, SSA is updating the Privacy Act Statement on the screen package.

- **Change #5:** We are updating the Paperwork Reduction Act Statement on this form.

Justification #5: We are revising the PRA statement to reflect our current boilerplate language. The current language, which dates back to the last reprint of the form, is now outdated.

SSA will implement these Changes immediately upon OMB's approval of this ICR, 0960-0813, within 60 days of the publication of the Final Rule, Removing Inability To Communicate in English as an Education Category (RIN 0960-AH86), which published February 25, 2020 at 85 FR 10586.

These revisions do not affect the public reporting burden.