

Why English literacy should not be considered in federal disability programs

SEPTEMBER 17, 2019

Jonathan Bain
Research Fellow

Greg George
Senior Research Fellow

FGA

KEY FINDINGS

1

THE DISABILITY SYSTEM WAS CREATED TO SERVE THE TRULY NEEDY, BUT OUTDATED RULES CREATED A DEPENDENCY TRAP FOR PEOPLE WHO DO NOT COMMUNICATE IN ENGLISH.



2

THE WORKFORCE HAS BECOME LESS DEPENDENT ON ENGLISH.



3

THERE ARE MORE OPPORTUNITIES THAN EVER BEFORE TO LEARN THE ENGLISH LANGUAGE.



BOTTOM LINE:

THE TRUMP ADMINISTRATION STANDS TO SAVE TAXPAYERS MORE THAN \$5 BILLION AND MOVE THOUSANDS FROM WELFARE BY UPDATING RULES THAT CURRENTLY CONSIDER ENGLISH ILLITERACY A DISABLING FACTOR.

The federal government operates two different disability programs: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI).

The SSDI program, enacted in 1956, is a federal program that provides monthly cash benefits to disabled workers and their dependents.¹ To become eligible for SSDI, a worker must earn enough work credits given their age.²

Monthly benefits are based on an individual's work history and career-average earnings in jobs covered under Social Security.³ After 24 months, all SSDI beneficiaries are eligible for Medicare.⁴

The SSI program went into effect in 1974 and is a need-based program that provides cash assistance to certain needy populations—specifically aged, blind, and disabled individuals—who have limited incomes and assets.⁵ SSI recipients are eligible for Medicaid in most states.⁶

For purposes of both programs, the federal government defines disability as the inability to earn \$1,220 per month—or \$14,640 per year—because of any medically determinable physical or mental impairments.⁷⁻⁸ The government calls this substantial gainful activity (SGA).⁹

Disability insurance pays only for total disability, meaning recipients are unable to earn more than the SGA limit. Benefits are not payable for short-term disability or partial disability. **The result is that—regardless of how work-capable recipients are—they are considered fully disabled, which creates a disincentive to work, look for work, or train for work.**

There are also no lifetime limits or benefit caps for disability benefits. Benefits will continue to be paid as long as the recipient meets the definition of disabled or until they reach full retirement age when SSDI benefits are converted into traditional Social Security retirement benefits. While this may make sense for disabled individuals with the most severe work limitations and ailments, it creates a perfect storm for a lifetime of dependence for those adults with manageable work limitations who have many prime working years left.

“
The result is
that—regardless
of how work-
capable
recipients
are—they are
considered
fully disabled,
which creates
a disincentive
to work, look for
work, or train
for work.
”

“
**Considering
English literacy
in disability
determinations
might have
made sense
in the 1970s.
But today, this
factor does not
appropriately
account for
changes in
the modern
economy,
technology,
and culture.**

”

Explaining the medical-vocational grids

The federal government uses a five-step process to determine if applicants are disabled. To be considered disabled, applicants' physical or mental impairments must be severe enough to last for at least 12 months or result in death.¹⁰⁻¹¹

Caseworkers determine whether or not an applicant meets the medical listing or equivalency test or if the individual can perform any of their previous work.

If the applicant does not meet the medical listing or equivalency test and is unable to perform past work, the caseworker will use the medical-vocational guidelines—often referred to as the “grids”—to determine the likelihood of that individual returning to work. The level of work the individual is capable of doing will determine which grid they are filtered through.¹²

The grids consider a worker's age, education, and skillset—and it is up to the caseworker to decide if the applicant can perform any other types of work.¹³

In 1978, the federal government also added the “inability to communicate in English” as a factor in determining disability. The agency has defined this as “unable to communicate in English or are able to speak and understand English but are unable to read or write in English.”¹⁴

Under current regulations, applicants have an increased chance of being considered disabled if they are unable to communicate in English—regardless if they are fluent in another language, or even if they can speak and understand English but cannot read or write English.¹⁵

Considering English literacy in disability determinations might have made sense in the 1970s. But today, this factor does not appropriately account for changes in the modern economy, technology, and culture. Indeed, the American economy is more accommodating for non-English speakers than at any time in history.

The inability to communicate in English should not be a disabling factor

The current rules for disability benefits that consider English to be a disabling factor fail to recognize that individuals who cannot read, write, or speak English often have some formal education, giving them a vocational advantage. In 2016, for example, half of SSDI claimants who reported the inability to communicate in English also reported having at least a high school education—and some had higher levels of educational attainment.¹⁶ But the current rules treat these individuals as having no education at all.

Those unable to communicate in English who reported having at least a high school education also had higher levels of previous work experience, including jobs with higher skill levels.¹⁷ Claimants with higher levels of education also have a vocational advantage over claimants with less, even though they are unable to communicate in English.¹⁸ For example, those unable to communicate in English had prior work experience as lawyers, pharmacy technicians, nurses, accountants, college faculty members, auditors, financial analysts, police officers, electricians, and more.¹⁹

The current rules also fail to consider whether or not English is the predominately spoken language in a given geographical area. For example, nearly one in three disability claims in Puerto Rico used the inability to communicate in English as a factor in 2016.²⁰ That same year, 87 percent of disability claimants in Puerto Rico reported the inability to read, write, or speak English, but nearly 80 percent of that same group reported having a high school education or more.²¹

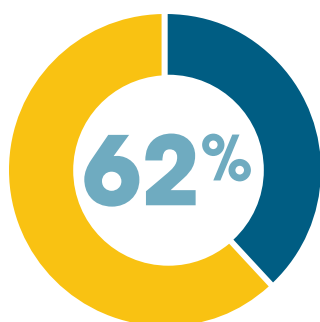
This is concerning for two reasons. First, 94 percent of the residents of Puerto Rico speak predominantly Spanish, so the inability to speak English does not affect their employability.²² Second, having at least a high-school education means that these individuals should have at least some skills that can translate into work.²³

In 2017, 80 percent of claimants who were approved for disability had a high school education or more. The work history of these claimants varied, and many had jobs that required higher levels of education and skills, including nursing, management, education, financial, and legal jobs.²⁴ The Office of Inspector General (OIG) concluded from these findings that “an ability to communicate in English is not the most appropriate proxy for determining educational categorization.”²⁵



**NEARLY ONE IN
THREE DISABILITY
CLAIMS FROM
PUERTO RICO IS DUE
TO THE INABILITY
TO COMMUNICATE
IN ENGLISH, EVEN
THOUGH 94
PERCENT OF PUERTO
RICANS SPEAK
PREDOMINANTLY
SPANISH**

The workforce has become less dependent on English



**62 PERCENT OF
NON-ENGLISH
SPEAKERS
PARTICIPATE
IN THE
LABOR FORCE**

The United States is a diverse country with employment opportunities in many industries for non-English-speakers. Between 1980 to 2016, the number of non-English-speaking, prime-age workers grew from 373,000 to 1.7 million—an increase of more than 350 percent.²⁶ Over the same period, the labor force participation rate of non-English speakers increased from 54.7 percent to 61.5 percent.²⁷ In fact, in 2016, non-English speakers with less than a high school degree were significantly more engaged in the economy than their English-speaking counterparts.²⁸

Research has shown that the inability to speak English does not generally prevent individuals from entering the workforce.²⁹ Workers with limited or no English literacy account for more than 1.7 million workers in industries touching virtually every corner of the national economy.³⁰

Another advantage of new technology is the ability to communicate, even when there is a language barrier. There are countless apps and online services that utilize translation software—such as Pairaphrase, Text United, GlobalLink, and Google Translate—that make conversing in the workplace easier than ever before, regardless of a language barrier.

The rise of remote work is another benefit that has accompanied technological advancements. People are relying less on traditional office conversations and more on cybercommunication—such as email—which often accommodate language barriers.

There are more opportunities than ever to learn English

Rather than considering individuals who are unable to communicate in English as disabled, federal policy should be promoting work and English proficiency. While the workforce has become more linguistically diverse and less dependent on English, there are still benefits to learning the English language.


In 2014, nearly one out of every ten working-age adults—or 19.2 million—were considered to be limited English proficient (LEP). Most of these workers have a high school education, and 15 percent hold a college degree. Despite this, LEP workers typically make 25 to 40 percent less than workers who are English proficient.³¹

There have also never been so many accessible opportunities to learn English. When the federal government added the inability to speak English to the grid rules in 1978, individuals had few options at their disposal when trying to learn a new language. These individuals were primarily limited to educational programs, tutoring, books, and cassette tapes.

But in 2019, this is not the case. With the rise of the Internet, there are nearly unlimited options when it comes to learning a new language. Nearly 90 percent of American households own one or more computers, and more than 80 percent have high-speed Internet access in their homes.³²

Even individuals without Internet access have many options to help learn English. Most state workforce development agencies offer adult education services for residents who wish to learn English as a second language.³³ Additionally, local schools, colleges, and private companies provide these services throughout the country.

“
While the workforce has become more linguistically diverse and less dependent on English, there are still benefits to learning the English language.
”



“
These savings
will ultimately
help strengthen
Social Security
and preserve
resources for
the truly needy.”

The Trump administration is moving to eliminate English as a disabling factor and preserve disability resources for the truly needy

In 2019, the Trump administration proposed revisions to current regulations to close this loophole. Under this proposed rule change, roughly 10,500 individuals applying for disability benefits each year will be shifted away from a lifetime of dependency and moved toward work and self-sufficiency.³⁴ With more than seven million open jobs, employers are desperate to find workers. Keeping more of these adults in the workforce could help ease labor shortages.³⁵⁻³⁶

As a result of this policy change, taxpayers are expected to save nearly \$5.4 billion in SSDI and SSI payments over the next decade.³⁷ These savings will ultimately help strengthen Social Security and preserve resources for the truly needy.

In today's global economy, the inability to speak English should not be considered a disabling factor. Reforming the disability system is crucial to preserving resources for the truly needy and protecting the integrity of these vital federal programs.

REFERENCES

1. William R. Morton, "Primer on disability benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)," Congressional Research Service (2014), <https://fas.org/sgp/crs/misc/RL32279.pdf>.
2. In 2018, a worker earns one work credit for every \$1,320 in earnings; a worker may earn up to four work credits per year.
3. William R. Morton, "Primer on disability benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)," Congressional Research Service (2014), <https://fas.org/sgp/crs/misc/RL32279.pdf>.
4. Ibid.
5. Ibid.
6. In a few states, SSI recipients are not guaranteed Medicaid eligible, though most people who receive SSI benefits are eligible regardless.
7. William R. Morton, "Primer on disability benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)," Congressional Research Service (2014), <https://fas.org/sgp/crs/misc/RL32279.pdf>.
8. Social Security Administration, "Substantial gainful activity," Social Security Administration (2018), <https://www.ssa.gov/oact/cola/sga.html>.
9. 20 C.F.R. § 404.1572 (2018), <https://www.gpo.gov/fdsys/pkg/CFR-2018-title20-vol2/pdf/CFR-2018-title20-vol2-sec404-1572.pdf>.
10. 42 U.S.C. § 423 (d)(1)(A) (2017), <https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapll-sec423.pdf>.
11. 42 U.S.C. § 1382c(a)(3)(A) (2017), <https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXVI-partA-sec1382c.pdf>.
12. SSA uses five grid factors when determining whether or not an individual is disabled. The first is age and is separated into the following categories: younger individuals (18-49), closely approaching advanced age (50-54), advanced age (55-59), closely approaching retirement age (60 and over). The second is education and is separated into the following categories: high school graduate or more, plus recent training for skilled work; high school graduate or more, without recent training for skilled work; limited education; and illiterate or unable to communicate in English. The third is an applicant's prior work experience. The fourth is whether or not an applicant has skills that are transferable to work. And lastly, SSA looks at an applicant's residual functional capacity, which is an applicant's ability to do work on a full-time basis.
13. Greg George, "Five major problems with the disability insurance program," Foundation for Government Accountability (2018), <https://thefga.org/research/five-major-problems-with-the-disability-insurance-program>.
14. Social Security Administration, "Program operations manual: DI 25015.010 – education as a vocational factor," Social Security Administration (2016), <https://secure.ssa.gov/poms.nsf/lnx/0425015010>.
15. 20 CFR 404 Appendix 2, Subpart P (2018), <https://www.govinfo.gov/content/pkg/CFR-2018-title20-vol2/xml/CFR-2018-title20-vol2-chapIII.xml>.
16. Social Security Administration, "Removing inability to communicate in English as an education category," Social Security Administration (2019), <https://www.regulations.gov/document?D=SSA-2017-0046-0001>.
17. Ibid.
18. Ibid.
19. Office of Retirement and Disability Policy, "English NPRM supporting data," Social Security Administration (2019), <https://www.regulations.gov/contentStreamer?documentId=SSA-2017-0046-0002&attachmentNumber=4&contentType=pdf>.
20. Social Security Administration, "Removing inability to communicate in English as an education category," Social Security Administration (2019), <https://www.regulations.gov/document?D=SSA-2017-0046-0001>.
21. Ibid.
22. Ibid.
23. U.S. Census Bureau, "Selected social characteristics in Puerto Rico," U.S. Department of Commerce (2016), https://factfinder.census.gov/faces/tables/services/jsf/pages/productview.xhtml?pid=ACS_16_5YR_DP02PR&prodType=table.
24. Social Security Administration, "Removing inability to communicate in English as an education category," Social Security Administration (2019), <https://www.regulations.gov/document?D=SSA-2017-0046-0001>.
25. Ibid.
26. Office of Research, Evaluation, and Statistics, "ORES analysis of 1980 Census and 2016 American Community Survey: English proficiency," Social Security Administration (2018), <https://www.regulations.gov/contentStreamer?documentId=SSA-2017-0046-0002&attachmentNumber=3&contentType=pdf>.
27. Ibid.
28. The labor force participation for non-English speakers with less than a high school education was 60.5 percent, compared to just 48.9 percent of "English only" workers with less than a high school education. The reverse was true in 1980.
29. Social Security Administration, "Removing inability to communicate in English as an education category," Social Security Administration (2019), <https://www.regulations.gov/document?D=SSA-2017-0046-0001>.
30. Ibid.
31. Jill Wilson, "Investing in English skills: The limited English proficient workforce in U.S. metropolitan areas," Brookings Institution (2014), <https://www.brookings.edu/research/investing-in-english-skills-the-limited-english-proficient-workforce-in-u-s-metropolitan-areas/#/M10580>.
32. Camille Ryan, "Computer and internet use in the United States: 2016," U.S. Department of Commerce (2018) <https://www.census.gov/content/dam/Census/library/publications/2018/acs/ACS-39.pdf>.

33. Lauren Eyster et al., "Understanding local workforce systems," Urban Institute (2016), https://www.urban.org/sites/default/files/publication/78496/2000648-understanding-local-workforce-systems_1.pdf.
34. Social Security Administration, "Removing inability to communicate in English as an education category," Social Security Administration (2019), <https://www.regulations.gov/document?D=SSA-2017-0046-0001>.
35. Bureau of Labor Statistics, "Job openings and labor turnover: June 2019," U.S. Department of Labor (2019), https://www.bls.gov/news.release/archives/jolts_08062019.pdf.
36. Sam Adolphsen, "There has never been a better time for welfare reform," Foundation for Government Accountability (2018), <https://thefga.org/research/there-has-never-been-a-better-time-for-welfare-reform>.
37. Ibid.



15275 Collier Boulevard | Suite 201-279

Naples, Florida 34119

(239) 244-8808

TheFGA.org

 [@TheFGA](https://twitter.com/TheFGA)