APPEALS COUNCIL
SOCIAL SECURITY ADMINISTRATION

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In the Matter of
[redacted]

Case #:
21IK202K02348

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MEMORANDUM

REQUEST FOR REVIEW OF THE ALJ DECISION AND ORDER DENYING, EITHER IN WHOLE OR IN PART, SOCIAL SECURITY DISABILITY BENEFITS.

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A.
SUMMARY OF ISSUES PRESENTED:

1. Whether the ALJ erred by failing to incorporate into the residual functional capacity, or explain the omission of, the superficial-interaction qualifier from the state agency consultants' opinion, despite finding that opinion generally persuasive.

Brief Answer: Yes. 20 C.F.R. § 416.920c(b)(2) and SSR 96-8p required the ALJ to either incorporate the credited "superficial" restriction into the RFC or explain its omission, and the decision does neither, leaving all three Step 5 occupations untested against that limitation.

2. Whether the ALJ erred by omitting the independent-goal-setting restriction from the RFC despite finding the consultants' opinion imposing it generally persuasive.

Brief Answer: Yes. SSR 96-8p required the ALJ to reconcile the credited restriction against independent goal setting with the RFC's silence on the point, and the decision provides no explanation, leaving the identified occupations untested against that limitation.

3. Whether the ALJ erred by omitting the occasional-routine-changes restriction from the RFC despite finding the consultants' opinion imposing it generally persuasive.

Brief Answer: Yes. SSR 96-8p and 20 C.F.R. § 416.920c(b)(2) required the ALJ to incorporate or explain the omission of the credited routine-change ceiling, and the ALJ's own step-3 findings on the claimant's difficulty with change make the unexplained omission particularly unsupported.

4. Whether the ALJ erred by omitting any stress-related restriction from the RFC despite finding the consultants' opinion imposing one generally persuasive.

Brief Answer: Yes. The ALJ's own findings document significant stress-related functional evidence, yet the RFC contains no stress limitation and no explanation for its total absence, contrary to SSR 96-8p and 20 C.F.R. § 416.920c(b)(2).

5. Whether the ALJ erred by assigning a precise 9%-off-task limitation without the logic bridge SSR 96-8p requires.

Brief Answer: Yes. The decision lists categories of evidence but never explains how that evidence yields exactly 9 percent, and SSR 96-8p required a traceable narrative connecting the record to that specific, outcome-determinative figure.

6. Whether the ALJ erred at Step 5 by accepting vocational expert testimony that lacked the DOT-to-SOC crosswalk explanation SSR 24-3p requires.

Brief Answer: Yes. The vocational expert never identified the SOC group, competing DOT codes, or derivation methodology underlying her job estimates, and SSR 24-3p required the ALJ to develop the record once that explanation proved inadequate.

B.
DETAILED ANALYSIS:

The claimant states that the ALJ erred in evaluating the facts and evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. As such, the claimant appeals the ALJ's decision denying benefits for the following specific reasons addressed below.

1. THE ALJ ERRED BY FAILING TO INCORPORATE THE SUPERFICIAL-INTERACTION QUALIFIER INTO THE RFC WITHOUT EXPLANATION

The claimant asserts that the Administrative Law Judge ("ALJ") committed reversible error by finding the state agency psychological consultants' opinion "generally persuasive" (Page 22) while silently declining to adopt one of its central components. Drs. Walter and Leizer opined that the claimant "is capable of superficial interactions with coworkers and the general public" (Page 22). Yet Finding #10's residual functional capacity ("RFC") limits the claimant only to "occasional interaction with supervisors, coworkers, and the public" (Page 20). "Occasional" and "superficial" measure different things: the former is a frequency descriptor, while the latter restricts the depth and substantive content of interaction regardless of how often it occurs. A claimant limited to superficial contact cannot be required to negotiate, resolve conflict, or engage in extended interpersonal exchange, no matter how infrequently such contact arises; an "occasional" limitation, standing alone, does not exclude a single intensive, substantively demanding interaction each day.

Under 20 C.F.R. § 416.920c(b)(2), the ALJ must "explain how [she] considered the supportability and consistency factors" for a medical source's opinion, and having found an opinion persuasive, the ALJ may not omit one of its components from the RFC without articulating, with reference to conflicting evidence, why that component was rejected. SSR 96-8p likewise requires that "[t]he RFC assessment must include a narrative discussion describing how the evidence supports each conclusion," and that the adjudicator "explain how any material inconsistencies or ambiguities in the evidence...were considered and resolved." Nowhere in the twenty-six-page decision does the ALJ acknowledge, let alone explain, the divergence between the credited "superficial" restriction and the RFC's bare "occasional" term.

This error was not harmless. The vocational expert ("VE") was asked a hypothetical incorporating only "occasional interaction" (Page 20; hearing testimony) and was never asked whether Kitchen Helper (DOT 318.687-010), Counter Supply Worker (DOT 319.687-010), or Marker (DOT 209.587-034) can be performed by an individual restricted to superficial, as opposed to merely infrequent, contact. Kitchen and counter-supply work in food-service settings routinely involves real-time, substantively responsive exchanges with kitchen staff, servers, and supervisors regarding orders, timing, and supply needs — precisely the engagement the consultants' credited opinion was designed to exclude (Page 25). Because the step-5 finding rests on a hypothetical that omitted a credited medical restriction, the claimant is entitled to remand for a properly formulated hypothetical and corresponding vocational testimony.

2. THE ALJ ERRED BY OMITTING THE INDEPENDENT-GOAL-SETTING RESTRICTION FROM THE RFC WITHOUT EXPLANATION

The claimant asserts that the ALJ erred by finding the state agency consultants' opinion "generally persuasive" (Page 22) — including their statement that the claimant "should work a job that does not require independent goal setting" (Page 22) — yet omitting any corresponding restriction from Finding #10's RFC (Page 20). The RFC limits the claimant to "simple work-related decisions" (Page 20), but that term addresses only the complexity of discrete choices within an already-structured task; it says nothing about whether the claimant can, without externally imposed direction, determine what needs to be accomplished, in what order, and by when. These are materially different limitations, and the consultants' opinion — credited by the ALJ in full — imposed the more specific one.

Under 20 C.F.R. § 416.920c(b)(2), an ALJ who finds a medical opinion persuasive must "explain how [she] considered the supportability and consistency factors," and may not silently decline to incorporate a credited component without articulated reasoning. SSR 96-8p similarly requires "a narrative discussion describing how the evidence supports each conclusion" and an explanation of how "material inconsistencies or ambiguities in the evidence...were considered and resolved." The omission here is particularly unexplained given the ALJ's own findings elsewhere: a moderate limitation in "concentrating, persisting, or maintaining pace" (Pages 7–8), an "extremely low processing speed (68)" (Pages 8, 13–14, 21–22), and special-education accommodations including "extended time to complete assignments" (Pages 8, 13–14) — findings entirely consistent with, and arguably compelling, the independent-goal-setting restriction the RFC omits without explanation.

This omission is not harmless. Independent goal setting is a vocationally significant limitation distinct from simple-decision-making, and the VE was never asked whether Kitchen Helper, Counter Supply Worker, or Marker require workers to self-direct, self-pace, or independently prioritize tasks across a shift without ongoing supervisory structure. Unskilled work at SVP 2 is not monolithic on this point: some positions involve close, continuous supervisory direction of each task, while others — including replenishing supplies, restocking, or marking merchandise — can require the worker to independently identify what needs attention without being told task-by-task (Page 25). Because this distinction was never posed to the VE, the claimant is entitled to remand for a properly formulated hypothetical incorporating this omitted and unrebutted persuasive limitation.

3. THE ALJ ERRED BY OMITTING THE OCCASIONAL-ROUTINE-CHANGES RESTRICTION FROM THE RFC WITHOUT EXPLANATION

The claimant asserts that the ALJ erred by crediting the state agency consultants' opinion that the claimant "can manage occasional routine changes" (Page 22) — meaning routine changes beyond an occasional basis exceed his tolerance — as "generally persuasive" (Page 22), yet including no corresponding limitation anywhere in Finding #10's RFC (Page 20). This is a further unexplained divergence between a credited medical opinion and the RFC the ALJ actually adopted.

The omission is difficult to reconcile with the ALJ's own step-3 “adapting or managing oneself” analysis, where the ALJ found a moderate limitation and expressly noted that the claimant “alleges difficulty handling stress or changes” and “required extra breaks when feeling overwhelmed” while in school (Page 9), and acknowledged that the claimant “engages in community-based services promoting independent living through New River Valley Community Services” (Page 9) — a service oriented toward individuals who struggle to independently adapt to changing demands. Having built a moderate-limitation finding partly on difficulty-with-change evidence, and having then credited a medical opinion translating that difficulty into a specific “occasional routine changes” ceiling, the ALJ's RFC nonetheless contains no change-tolerance restriction at all, with no discussion anywhere in the decision explaining the gap.

Under 20 C.F.R. § 416.920c(b)(2), the ALJ must “explain how [she] considered the supportability and consistency factors” underlying a persuasiveness finding, and SSR 96-8p requires “a narrative discussion describing how the evidence supports each conclusion” together with an explanation of how “material inconsistencies or ambiguities in the evidence...were considered and resolved.” A “simple work-related decisions” limitation does not address how frequently the workplace, tasks, shift structure, or supervisory expectations can change before the claimant's functioning breaks down — a distinct question the consultants specifically answered and the ALJ specifically credited, only to omit it from the operative RFC.

This error was not harmless. The VE was never asked whether Kitchen Helper, Counter Supply Worker, or Marker involve routine changes more frequent than “occasional,” and food-service and retail-adjacent environments are characteristically subject to frequent shifts in task priority, menu, inventory, staffing, and customer volume — arguably more than occasional routine change as a matter of common vocational knowledge (Page 25). The claimant is entitled to remand for a properly formulated hypothetical and corresponding VE testimony.

4. THE ALJ ERRED BY OMITTING ANY STRESS-RELATED RESTRICTION FROM THE RFC DESPITE CREDITING THE UNDERLYING OPINION

The claimant asserts that the ALJ erred by finding “generally persuasive” (Page 22) the state agency consultants' opinion that the claimant “should work a job that does not require high stress situations” (Page 22), yet including no stress-related limitation of any kind in Finding #10's RFC (Page 20) — not a prohibition on high-stress work, not a proxy limitation on pace or production, and not even an “occasional change” surrogate that might partially capture the same concern. The omission is total.

This gap is especially conspicuous because the ALJ's own narrative decision repeatedly documents stress-related functional evidence that would ordinarily translate into a corresponding RFC restriction. The ALJ found a moderate limitation in adapting or managing oneself and noted the claimant “alleges difficulty handling stress or changes” (Page 9), required “extra breaks when feeling overwhelmed” (Pages 9, 13, 19), and is prescribed “anti-anxiety agent (Buspirone)...and anti-depressant (Trazodone)” specifically to manage this symptomatology (Pages 9, 11, 21). The ALJ even found a different opinion “unpersuasive” specifically because it failed to account for “the claimant's need for school accommodations to handle emotional overwhelm” (Page 20) — demonstrating the ALJ's own awareness that stress-related accommodation is a significant, record-supported functional need.

Under 20 C.F.R. § 416.920c(b)(2), the ALJ must "explain how [she] considered the supportability and consistency factors" for a credited opinion rather than adopt only its favorable components, and SSR 96-8p requires "a narrative discussion describing how the evidence supports each conclusion" and resolution of any "material inconsistencies or ambiguities in the evidence." Neither requirement was satisfied here.

This omission cannot be deemed harmless. "High stress situations" in a vocational context typically implicates production-rate pressure, tight deadlines, and supervisory confrontation — demands that can arise even within otherwise "simple," unskilled, SVP-2 work. The VE was never asked whether Kitchen Helper, Counter Supply Worker, or Marker — jobs performed at "medium" and "light" exertional levels in fast-paced service and production environments (Page 25) — qualify as high-stress within the meaning of the credited opinion, nor was the VE asked to identify alternative, lower-stress occupations if they do not. The claimant is entitled to remand for a proper hypothetical incorporating this credited but unincorporated restriction.

5. THE ALJ ERRED BY FAILING TO PROVIDE A LOGIC BRIDGE FOR THE 9% OFF-TASK FINDING

The claimant asserts that the ALJ erred by assigning a precise "off task for up to 9% of a workday" limitation (Page 20, repeated Page 24) without providing the evidentiary bridge SSR 96-8p requires. The decision states only that the ALJ "assessed greater limitations (including off task for up to 9% of the workday) to appropriately reflect the evidence of record," citing academic accommodations, "clinical signs of distractible attention and concentration noted in psychotherapy records," consultative diagnostic findings, and hearing testimony (Page 22). This is a list of evidentiary categories, not an explanation of why the cumulative effect of that evidence yields precisely 9 percent rather than 5, 7, or 12 percent.

SSR 96-8p requires that "[t]he RFC assessment...include a narrative discussion describing how the evidence supports each conclusion, citing specific medical facts...and nonmedical evidence," and that the adjudicator "explain how any material inconsistencies or ambiguities in the evidence...were considered and resolved." A processing speed index of 68 — more than two standard deviations below the mean (Page 6F, discussed Pages 8, 13, 21–22) — documented "periodically distractible attention and concentration" (Pages 11, 21), and academic accommodations including extended time and preferential seating (Pages 6–7, 12–14) are qualitative and relative descriptors; none, singly or combined, arithmetically yields a 9% figure without an intervening analytical step the decision never articulates. The ALJ rejected the treating psychiatrist's opinion of monthly absences and symptoms that "frequently interfere with attention and concentration" (Page 23) as "unpersuasive," and rejected the consultative examiner's opinion of "at least mild impairment" completing complex tasks (Page 22) as "internally inconsistent" — yet having discounted both more restrictive opinions, the ALJ never explained how the residual 9% figure was affirmatively constructed from what remained.

This is not harmless error. Off-task percentage is among the most vocationally sensitive variables in Social Security adjudication; off-task time at or above approximately 10% of the workday is widely treated as work-preclusive for unskilled competitive employment, and a figure one percentage point below that threshold is outcome-determinative. Without a logic bridge, meaningful review of Finding #10 is foreclosed, and the claimant is entitled to remand for the ALJ

either to supply the missing explanation or reassess the off-task finding, with corresponding VE testimony addressing any revised figure.

6. THE ALJ ERRED BY ACCEPTING VOCATIONAL EXPERT TESTIMONY THAT LACKED THE METHODOLOGY EXPLANATION REQUIRED BY SSR 24-3P

The claimant asserts that the ALJ erred at step 5 by accepting vocational expert ("VE") testimony that failed to satisfy the methodology-transparency requirements of SSR 24-3p. The VE testified that the claimant could perform Kitchen Helper (DOT 318.687-010, 102,000 jobs nationally), Counter Supply Worker (DOT 319.687-010, 28,000 jobs nationally), and Marker (DOT 209.587-034, 165,000 jobs nationally) (Page 25). The ALJ found the VE had "identified the data source(s) they relied on and provided their general approach to estimating job numbers," citing testimony that the VE relied on the DOT "for the assessment of DOT title, exertional level, and SVP" and on "the Bureau of Labor Statistics...to report on national job numbers for the SoC code" (Page 25), refined using a software tool to isolate full-time figures.

SSR 24-3p directly governs this scenario. The ruling provides that "[b]ecause the DOT uses a different classification taxonomy from the SOC system, VEs would need to explain the general approach of how they compared the DOT data to the data about estimates of job numbers" in an SOC-based source, and that the VE "could address the SOC group for the corresponding DOT code and explain how the estimates of job numbers for the specific occupation are derived from the overall numbers for the SOC group." While "[a] detailed inquiry is not required," the ruling directs that "if a VE does not provide any explanation about the general approach, our adjudicators should ask them to provide one."

Here, the VE never identified the specific SOC group corresponding to any of the three DOT codes, never explained how many other DOT occupations crosswalk into that same SOC group, and never explained why the specific national job figures attributed to these three occupations — as opposed to broader SOC-level totals — were allocated in the proportions given. The ALJ accepted the testimony without eliciting the missing explanation SSR 24-3p directs adjudicators to request.

This error is not harmless because the job-number evidence is the entire evidentiary foundation for the step-5 "not disabled" finding. Without a traceable crosswalk explanation, the "significant numbers in the national economy" finding lacks the substantial-evidence support SSR 24-3p requires. The claimant is entitled to remand for the ALJ to develop the record with the crosswalk explanation the ruling mandates.

C.
BROAD REQUEST FOR REVIEW:

The Appeals Council has an affirmative duty to review the entire record, including "new and material evidence" before rendering its decision to grant or deny review. *See Williams v. Halter,* 135 F.Supp.2d 1225, 1231 (M.D.Fla.2001); 20 C.F.R. § 404.970(b).

Although an ALJ's findings of fact may be taken as conclusive, the Appeals Council may review all the evidence of record to decide whether the ALJ's findings are supported by substantial evidence. In *Powell v. Heckler,* 789 F.2d 176 (3d Cir.1986), the court held that the Appeals Council

need not limit its review to the issue appealed, but may review a claimant's entire case. Id. at 179; see also *Hale v. Sullivan*, 934 F.2d 895, 898 (7th Cir.1991) (once the Appeals Council receives a timely request for review, it is entitled to review the entirety of the case); *Gronda v. Secretary of Health & Human Serv.,* 856 F.2d 36, 38–39 (6th Cir.1988) (Appeals Council had authority to review entire case within 60 days of ALJ's decision even though claimant only requested review of narrow aspect of case), cert. denied, 489 U.S. 1052, 109 S.Ct. 1312, 103 L.Ed.2d 581 (1989).

In this case, the claimant is asking the Appeals Council to review specific and narrow issues, which are identified in Section B, above. However, in addition to the specific issues identified above, the claimant is also asking the Appeals Council to review all the evidence of record to determine if the ALJ committed any other errors, beyond those errors that have been specifically identified above.

In this case, the claimant asserts that the ALJ erred in evaluating the facts, evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. As such, it is requested that the Appeals Council vacate the decision denying benefits and remand the case for further consideration.

D.
CONCLUSION:

The claimant asserts that the ALJ erred in evaluating the facts, evidence, and erred in the application of legal principles, including the applicable Rules and Regulations. Consequently, the claimant asserts that the decision denying benefits is not based upon substantial evidence. The claimant requests that the Appeals Council vacate the decision denying benefits and remand the case for further consideration.

Dated: September 20, 2026

Respectfully submitted:

/s/ Bryan Konoski

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BRYAN KONOSKI, ESQ.