UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS EL PASO DIVISION

EDGAR ULLOA LUJAN, SAMAR	§	
AHMAD, and VERONICA GONZALEZ,	§	
Plaintiffs,	§	
	§	
v.	§	
	§	3:22-CV-(
UNITED STATES DEPARTMENT OF	§	
EDUCATION, MIGUEL CARDONA, in	§	
his official capacity as Secretary of the U.S.	§	
Department of Education, and NASSER H.	§	
PAYDAR, in his official capacity as	§	
Assistant Secretary of Postsecondary	§	
Education of the U.S. Department of	§	
Education,	§	
	§	
Defendants.	§.	

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ORDER CLARIFYING SCOPE OF PRELIMINARY INJUNCTION

On March 24, 2023, the Court enjoined Defendants from applying the Foreign Language Criterion, 34 C.F.R. § 662.21(c)(3), in a manner that devalues a Fulbright-Hays Fellowship applicant's foreign language skills in their native language.¹ *See* Prelim. Inj. Op., ECF No. 37, at 14–28, 31. The parties interpret the scope of the Court's injunction differently. *Compare* Mot. Clarification, ECF No. 38, *with* Resp., ECF No. 39. Defendants believe the injunction entirely prevents them from assessing an applicant's foreign language proficiency—native language or otherwise—under 34 C.F.R. § 662.21(c)(3). Resp. at 1–2. Plaintiff Gonzalez believes the injunction only prevents Defendants from applying the portion of the Foreign Language

¹ The Court limited this relief to the 2023 Fulbright-Hays Fellowship application cycle. Prelim. Inj. Op., ECF No. 37, at 31 ("[T]he Court vacates 34 C.F.R. § 662.21(c)(3) as to all 2023 Fulbright-Hays Fellowship applicants.").

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Criterion that requires applicants to be proficient in a language "other than . . . the applicant's native language."² Mot. Clarification at 4–5, 8.

Plaintiff Gonzalez's interpretation is correct. The Court did not invalidate 34 C.F.R.

§ 662.21(c)(3) in its entirety. The Court thus CLARIFIES that its injunction applies only insofar

as the Foreign Language Criterion prohibited considering an applicant's native language skills.³

So ORDERED and SIGNED this 3rd day of April 2023.

DAVID C. GUADERRAMA UNITED STATES DISTRICT JUDGE

² For clarity, this is the portion of 34 C.F.R. § 662.21(c)(3) that Plaintiff Gonzalez has deemed the "native-language penalty." *See, e.g.*, Mot. Clarification, ECF No. 38, at 1. Moreover, the Court did not disturb section 662.21(c)(3)'s position on the assessment (or lack thereof) of an applicant's English language proficiency.

³ Defendants do not oppose this scope of relief. Resp. at 3 ("[T]o the extent Plaintiffs ask [] the Court to narrow the injunction in a manner that only enjoins 34 C.F.R. § 662.21(c)(3) insofar as it excludes consideration of native language skills, but leaves the remainder of the regulatory provision intact, Defendants take no position and do not oppose that outcome.").