

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**EDGAR ULLOA LUJAN, SAMAR  
AHMAD, and VERONICA GONZALEZ,**

*Plaintiffs,*

**v.**

**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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**3:22-CV-00159-DCG**

**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.<sup>1</sup> *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

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<sup>1</sup> 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.”).

Criterion that requires applicants to be proficient in a language “other than . . . the applicant’s native language.”<sup>2</sup> 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.<sup>3</sup>

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



**DAVID C. GUADERRAMA**  
**UNITED STATES DISTRICT JUDGE**

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<sup>2</sup> 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.

<sup>3</sup> 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.”).