

**DEPARTMENT OF EDUCATION****34 CFR Parts 662 and 663****RIN 1840-AD90****Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program and Faculty Research Abroad Fellowship Program**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The U.S. Department of Education (Department or we) issues final regulations governing the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship Program and the Faculty Research Abroad (FRA) Fellowship Program. This rule revises language proficiency qualifications for DDRA and FRA applicants and clarifies the Secretary's discretionary use of eligibility criteria.

DATES: These regulations are effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Pamela J. Maimer, U.S. Department of Education, 400 Maryland Avenue, SW, 5th floor, Washington, DC 20202. Telephone: (202) 453-6891. Email: pamela.maimer@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Background:

The DDRA Fellowship Program provides opportunities for doctoral students to engage in dissertation research abroad in modern foreign languages and area studies. The program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States and to increase scholars' knowledge of the culture of the people in the countries or regions of research. The program provides fellowships to doctoral candidates who are planning a teaching career in the United States upon completion of their programs and who possess sufficient foreign language skills in the country or countries of research to carry out the dissertation research project.

The FRA Fellowship Program provides opportunities for faculty members teaching modern foreign languages or area studies at U.S. institutions of higher education (IHEs) to engage in research abroad in those languages or areas studied. The program is designed to contribute to the faculty members' foreign language skills and to increase knowledge of the culture of the people in the countries or regions of research.

On March 21, 2023, the Secretary published a notice of proposed rulemaking (NPRM) for these parts in the *Federal Register*.¹ These final regulations contain changes from the NPRM, which we explain in the Analysis of Comments and Changes section of this document.

¹88 FR 16924

Public Comment: In response to our invitation in the NPRM, the Department received five comments on the proposed regulations. We address those comments in the Analysis of Comments and Changes section below.

Analysis of Comments and Changes:

We group issues according to subject, with appropriate sections of the regulations referenced in parentheses, where applicable. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes (such as renumbering paragraphs, adding a word, or typographical errors). Additionally, we do not address recommended changes that the statute does not authorize the Secretary to make or comments pertaining to operational processes. We generally do not address comments pertaining to issues that were not within the scope of the NPRM.

An analysis of the public comments received and the changes to the regulations since publication of the NPRM follows.

General Support

Comments: Two commenters supported the proposed regulations.

Discussion: We thank the commenters for their support. We believe these changes maintain the statutory goals and the integrity of the programs.

Changes: None.

General Opposition

Comments: One commenter objected to the existence of both the DDRA and the FRA programs.

Discussion: These programs are authorized by statute.²

Changes: None.

Secretarial Discretion (§§ 662.21(c) and 663.21(c))

Comments: One commenter asked the Department to explain whether the proposed rule is intended to merely clarify the Secretary's existing discretion to vary selection criteria point values assigned to DDRA or FRA, which was granted in a 2005 rulemaking, or whether the proposed rule would grant new discretion to the Secretary. If the latter, the commenter believed that the Department should explain any additional discretion and give the public an opportunity to comment on the proposed expansion.

The commenter further opined that, as the Fulbright-Hays Act and the Department's eligibility regulations require the Secretary to meaningfully consider foreign language skills, the Department should finalize §§ 662.21(c) and 663.21(c) without the proposed "one or more" phrase in the introductory text or otherwise clarify that the Secretary may not ignore foreign language skills when awarding DDRA and FRA Fellowships. The commenter objected to the proposed rule to the extent that it would grant discretion to ignore foreign language skills in the DDRA and FRA competitions.

Lastly, this commenter stated that, if finalized as proposed, the revisions to §§ 662.21(c) (3), 662.21(c) (4),

² 22 U.S.C. 2452 (b) (6) .

663.21(c) (3), and 663.21(c) (4) would address the concerns identified in a recent lawsuit filed on behalf of DDRA applicants³ who challenged the weight given to their respective native languages in the selection process.

Discussion: The Department appreciates this commenter's concerns and wishes to clarify that the additional discretion proposed under §§ 662.21(c) and 663.21(c) to allow the Secretary to consider "one or more" of the listed applicant qualification criteria, while expanding the Secretary's discretion under these particular programs, is an appropriate exercise of the Secretary's general authority under 34 CFR 75.201 to identify and notify applicants of grant competition selection criteria (an authority which is routinely used, for example, across Departmental programs utilizing the general selection criteria under 34 CFR 75.210) and is consistent with the Fulbright-Hays Act.⁴ The Department would only use this flexibility consistent with the programs' statutory requirement to "promot[e] modern foreign language training and area studies in United States schools[.]"⁵ The Department believes that it is able to discharge this requirement and the purpose of these grants for "improving [an applicant's] skill in languages" within the framework of several of the criteria looking at the Qualification of an Applicant, and that this duty does not rest solely on any single

³ See *Lujan v. U.S. Dep't of Educ.*, No. 3:22-CV-00159-DCG, ___ F. Supp. 3d ___, 2023 WL 2638280 (W.D. Tex. Mar. 24, 2023).

⁴ See 34 CFR 75.201 ("[i]n the application package or a notice published in the Federal Register, the Secretary informs applicants of . . . [t]he selection criteria chosen[.]").

⁵ 22 U.S.C. 2452(b) (6).

criteria under that section. The flexibility to select "one or more" of the applicant qualification criteria under §§ 662.21(c) and 663.21(c) will enhance the Department's ability to structure its grant competitions to select the most qualified applicants for funding, because it will allow the Department to focus from year-to-year on those selection criteria that have yielded applications from the most qualified candidates. It also will allow the Department to review the effect of omitting a particular selection criterion in a given year on the quality of applicants, without having to go through additional rulemaking to obtain this information.

Changes: None.

Severability (§§ 662.8 and 663.8)

Comments: None.

Discussion: Current regulations in 34 CFR 662 and 663 do not address severability. The Department seeks to clarify its intent that, with regard to severability, each of the regulations in 34 CFR parts 662 and 663 and its subparts serves one or more important, related, but distinct, purposes. To best serve these purposes, we included this administrative provision in the regulations to make clear that the regulations are designed to operate independently of each other and to convey the Department's intent that the potential invalidity of one provision or any of its subparts should not affect the remainder of the provisions.

Changes: We have added new severability provisions in §§ 662.8

and 663.8.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order (EO) 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the EO and subject to review by the Office of Management and Budget (OMB). Section 3(f) of EO 12866, as amended by EO 14094, defines a "significant regulatory action" as an action likely to result in a rule that may-

(1) Have an annual effect on the economy of \$200 million or more (adjusted every three years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles stated in the Executive order, as specifically

authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by EO 14094).

We have also reviewed these regulations under EO 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in EO 12866. To the extent permitted by law, EO 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

EO 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OMB’s OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

The Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and we are issuing these final requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, the Department believes that the final requirements are consistent with the principles in EO 13563.

We also have determined that this regulatory action does not unduly interfere with state, local, territorial, or Tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis, we discuss the need for regulatory action, the potential costs and benefits, and net budget impacts.

Elsewhere, under the Paperwork Reduction Act of 1995 (PRA), we identify and explain burdens specifically associated with information collection requirements.

Need for Regulatory Action

The Department amends the DDRA and FRA program regulations to promote fairness in the application review process for native speakers of languages other than English. These revisions are also consistent with the statutory framework for the DDRA and FRA programs and are necessary to support the statutory goal of “promoting modern foreign language training and area studies in United States schools[.]”⁶ Additionally, revising the introductory language of §§ 662.21(c) and 663.21(c) to allow consideration of “one or more” of the listed criteria will enable the Department to administer these competitive grant programs in a manner that prioritizes the most qualified applicants for funding. Finally, the addition of severability clauses to the regulations for these programs will enable the Department to administer these programs more effectively if a component of the regulations is invalidated by a court.

Discussion of Costs, Benefits, and Transfers

The Department believes this regulatory action will not impose significant new cost-bearing requirements on IHEs or other entities. We also believe that the benefits of implementing this regulatory action outweigh any associated costs.

⁶ 22 U.S.C. 2452(b)(6).

We anticipate a minimal increase of 10-15 DDRA and FRA program applications as a result of eliminating the native language proficiency exclusion and foresee minimal impact on the Department's time and cost for reviewing these additional applications.

Over the last 5 years, the amount of annual funding for the DDRA program has ranged from approximately \$3.4 to \$5.5 million, with an average of 200 grant applications received per year, and an average of 50 percent of applications ultimately receiving grant awards. With the changes to the regulation, the Department expects an increase of 10-15 applications per year, based on the number of applicants that have applied to study a geographic area that shares their native language skills in recent years.

An increase in the number of applicants or awards granted could result in additional costs to the Department in securing readers to review applications, but if additional costs arise, they will be minimal. The Department pays readers \$1,200 to review applications, and the number of applications per reader ranges from 15 to a maximum of 22. An increase in 10-15 applications could increase costs by an additional \$1,200 to secure an additional reader. However, the number of DDRA applications has declined over the last several years from a high of almost 250 to a low of just more than 150 in 2022. As a result, an increase in immediate applications would not result in any overall comparative additional costs, as a nominal

increase in applications will restore DDRA to the average amount of applications received in prior years. We anticipate no additional costs to grant recipients, as we will continue to pay for grant activities with program funds. We also note that program participation is voluntary.

In fiscal year (FY) 2022, the Department conducted an FRA competition and awarded 22 recipients a total of approximately \$1.3 million. The FY 2022 competition was the first FRA competition in more than 10 years. The Fulbright-Hays appropriation decreased from \$15.6 million in FY 2010 to \$7.5 million in FY 2011; the nearly 50 percent decrease in available funding hindered our ability to conduct competitions and make awards under all four Fulbright-Hays programs. The result was a suspension of the FRA program from 2011 to 2021.

Between 2011 and 2021, the funding level for the Fulbright-Hays programs averaged \$7.4 million. In FY 2022, the amount increased to \$9.8 million, which enabled us to re-activate the FRA program. Although we will not conduct the FRA competition in FY 2023, we do anticipate conducting another FRA competition in FY 2024, contingent upon funding availability. Given that we held only one FRA competition in the last 10 years, we cannot discuss potential trends in those program applications or potential corresponding costs.

The benefits of these final regulations include better aligning DDRA and FRA applicant qualifications with other comparable grant programs to focus on overall language

proficiency and increasing equitable access to research abroad for those demonstrating language proficiency in the language of the countries in which their doctoral-level or faculty research study will occur. This will apply regardless of the applicant's native language. Additionally, we expect that the regulations will lead to an increase in the number of applications overall, which will make the program more competitive and enable the Department to fund even higher quality applications. The increase in applications specifically from individuals with native languages other than English will yield additional applications from individuals speaking a wider variety of native languages, as well as more applications recommended for funding from these individuals. These regulations will also more fully account for proficiency by adding a new selection criterion that considers an applicant's academic record. Under this criterion, we will consider any steps the applicant has taken to improve proficiency in the language of study and ensure adequate preparation for the proposed research project. We believe this criterion will support the programmatic goal of the DDRA and FRA to promote training "in United States schools, colleges, and universities." Allowing applicants to show steps taken to improve their language proficiency in an academic setting will better demonstrate their ability to study in that language abroad. This change may also encourage applicants to complete additional training as a way to strengthen their application.

Finally, providing Secretarial discretion to determine the factors that will be considered when reviewing the qualifications of applicants would increase flexibility to implement the program within statutory requirements while adapting to changing Departmental priorities for international and foreign language education. This change will align DDRA and FRA with other Departmental programs that provide discretion to the Secretary to select among the regulated selection criteria when deciding which criteria to emphasize in a competition year.

We do not anticipate any cost to the Federal government as a result of this particular change, beyond nominal costs associated with updating the application package. We do not expect any impact on the number of applications received as a result of this change, nor do we anticipate any costs to grant recipients. Accordingly, we do not anticipate any burden cost with the addition of this particular criterion.

Net Budget Impacts

These proposed regulations are not estimated to have a significant net impact on the Federal budget. As noted above, the Department estimates that these final regulations will not result in additional net costs.

Alternatives Considered

In addition to allowing native speakers to receive points based on §§ 662.21(c)(3) and 663.21(c)(3), we considered allowing English as the language for the country of research, which is currently restricted. We did not take that approach

because we believe maintaining the requirement that applicants demonstrate proficiency in a language “other than English” more appropriately meets the statutory goal of “promoting modern foreign language training and area studies in United States schools[.]”⁷

We also considered continuing to solely provide points for language proficiency without consideration of additional steps taken to improve proficiency. We did not take that approach because we believe that including a criterion that considers steps taken to improve proficiency in a domestic academic setting better meets the statutory goal of promoting training “in United States schools, colleges, and universities”⁸ and will better demonstrate applicants’ ability to study in that language abroad. This change may also encourage applicants to complete additional training as a way to strengthen their application. Additionally, we believe that replacing the exclusion for native language skills other than English with a focus on both an applicant’s current foreign language skills and efforts to master the language of study will be more effective in increasing the capabilities and diversity of applicants and participants, while remaining consistent with the statutory goals of these programs.

Regulatory Flexibility Act Certification

⁷ 22 U.S.C. 2452(b)(6).

⁸ Ibid.

The Secretary certifies under the Regulatory Flexibility Act⁹ that these regulations will not have a significant economic impact on a substantial number of "small entities."

The small entities that will be affected by the proposed regulations are IHEs that submit applications to the Department under this program. The final regulations will not have a significant economic impact on the small entities affected because they will not impose excessive regulatory burdens or require unnecessary Federal supervision. The final regulations will impose minimal requirements to ensure the proper expenditure of program funds.

In the NPRM, we invited the public to comment on our proposed certification that these regulations would not have a significant economic impact on a substantial number of small entities. We did not receive any comments on this subject.

The Small Business Administration (SBA) defines "small institution" using data on revenue, market dominance, tax filing status, governing body, and population. Most entities to which the Office of Postsecondary Education's regulations apply are postsecondary institutions. However, we do not require institutions to report such data to the Department. As a result, for purposes of this final rule, the Department defines "small entities" by reference to enrollment to allow meaningful comparison of regulatory impact across all types of higher

⁹ 5 U.S.C. 601 et seq.

education institutions.¹⁰ We consider two-year postsecondary educational institutions with enrollment of fewer than 500 full-time equivalent (FTE) and 4-year postsecondary educational institutions with enrollment of fewer than 1,000 FTE to be small entities.

Table 1: Small Institutions Under Enrollment-Based Definition

Type	Small	Total	Percentage of Total
Proprietary	1,973	2,331	85%
2-year	1,734	1,990	87%
4-year	239	341	70%
Private not-for-profit	983	1,831	54%
2-year	185	203	91%
4-year	798	1,628	49%
Public	380	1,924	20%
2-year	317	1,145	28%
4-year	63	779	8%
Total	3,336	6,086	55%

Source: Department analysis of 2020-21 IPEDS data.

The Department used Integrated Postsecondary Education Data System (IPEDS) data from fiscal year 2020 reported under the finance data category. This reporting does not include all participating institutions and provides approximate data.

The Regulatory Flexibility Act also requires us to estimate the effect of the final regulations on small entities. We

¹⁰In some prior regulations, the Department categorized small businesses based on tax status. Those regulations defined “non-profit organizations” as “small organizations” if they were independently owned and operated and not dominant in their field of operation, or as “small entities” if they were institutions controlled by governmental entities with populations below 50,000. Those definitions resulted in the categorization of all private nonprofit organizations as small and no public institutions as small. Under the previous definition, proprietary institutions were considered small if they were independently owned and operated and not dominant in their field of operation with total annual revenue below \$7,000,000.

identified 27 of the 97 affected entities as small. As noted above, we estimated that this final rule will result in benefits for all affected entities without regulatory burden. We estimated that small institutions will, on average, see an increase of approximately \$952,400 in funding. Similarly, we projected that non-small institutions will receive an increase of approximately \$407,900.

In terms of regulatory impact, these regulations are designed to avoid excessive burdens or unnecessary Federal supervision. The minimal cost that these regulations will impose are those associated with grantees' obligation to certify participant eligibility and safeguard the proper expenditure of program funds. Consequently, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA.¹¹ This helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments

¹¹ 44 U.S.C. 3506 (c) (2) (A).

are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Sections 662.21(c)(3) and 663.21(c)(3) of the regulations contain information collection requirements. Under the PRA, the Department submitted a copy of these sections to OMB for review.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In these final regulations, we provide the control number assigned by OMB to any information collection requirements. The information collection impacted by these regulatory changes is the Application for the DDRA and FRA Programs, OMB Control Number 1840-0005. Under the DDRA and FRA programs, individual scholars apply through eligible institutions for an institutional grant to support the research fellowship. These institutions administer the program, in cooperation with the Department, pursuant to §§ 102(b)(6) and 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 34 CFR parts 662 and 663, the Policy Statements of the J. William Fulbright Foreign Scholarship Board (FSB), and the Education Department General Administrative Regulations (EDGAR).

The Department, U.S. foreign language and area studies specialists, the U.S. Department of State, U.S. Embassies, Fulbright Commissions, host country officials and scholars, and the FSB use these data. This use is necessary to determine the academic qualifications and suitability of the individual applicant, potential political sensitivity and feasibility of the project in the host country, research climate, and adequacy of the proposed budget.

The Department awards grants under these programs annually.

The DDRA and FRA application (1840-0005) will be affected by the regulatory changes in the following ways:

- We will change the application package to eliminate the native language proficiency exclusion.
- We will include additional language in the DDRA and FRA selection criteria (under §§ 662.21(c) (3) and 663.21(c) (3)) that requires minimal changes on the technical review forms.

Table 2: Estimated Burden Hours

Program	Number of Respondents	Average burden hours per response	Total burden hours	Estimated respondent average hourly wage	Total annual costs (hourly wage x total burden hours)
DDRA Student Respondent	325	25	8,125	\$0	\$0
DDRA Institution Project Director	50	25	1,250	\$47.20	\$59,000
FRA Faculty Respondent	70	25	1,750	\$36.33	\$63,578

FRA Institution Project Director	50	15	750	\$47.20	\$35,400
Annualized total	495		11,875		\$157,978

The hour burden for individual DDRA student respondents is estimated at an average of 25 hours for each student. The cost burden for DDRA student applicants is zero. We estimated that the changes to these regulations may result in a small increase in the number of DDRA student respondents from 310 to 325 submitting a single application. When multiplied by 25 hours, this results in an increase in DDRA student burden hours from 7,750 to 8,125.

We estimated the hour burden for the 50 DDRA institutional project directors to be 25 hours for reviewing each DDRA application for a total burden of 1,250. The cost burden of \$47.20 for institutional DDRA applicants totals \$59,000. We used feedback from DDRA respondents during the last three years to estimate these amounts.

The hour burden for the 70 individual FRA respondents is estimated to average 25 hours for each faculty member to complete the application for a total of 1,750 hours. The cost burden for faculty applicants at \$36.33 totals \$63,578.

The hour burden for the 50 FRA institutional project directors is estimated to be 15 hours for reviewing each FRA application for a total burden of 750 hours. The cost burden for institutional FRA applicants at \$47.20 is \$35,400. These

estimates are based on feedback from FRA respondents during the last three years.

These estimates incorporate completion of the following tasks:

1. Register in the G5 e-Application system (project director);
2. Complete official forms (student/faculty and project director);
3. Develop the application narrative and budget (student/faculty);
4. Screen individual completed applications (project director); and
5. Transmit completed individual applications to the Department in a single submission via G5 (project director).

We note that the hour burdens for the DDRA and FRA project directors differ because the FRA program is smaller and has fewer applicants. DDRA project directors generally process applications for multiple students; FRA project directors generally process an application for a single faculty member.

The data in Table 2 are an estimate of the time needed for both institutional project directors and individual student and faculty respondents to complete tasks listed.

Table 3: Collection of Information

Regulatory section	Information Collection	OMB Control #1840-0005-- estimated burden
34 CFR § 662.21(c) (3)	This regulatory provision will require changing the application package to	The number of respondents and the number of annual burden hours will increase to

	eliminate the native language proficiency exclusion.	495 and 11,875 respectively; the annual burden costs will remain at \$157,978.
34 CFR § 663.21(c)(3)	This regulatory provision will require new language in the DDRA and FRA selection criteria to consider steps an applicant has taken to improve their language proficiency.	The number of respondents and the number of annual burden hours will increase to 495 and 11,875 respectively; the annual burden costs will remain at \$157,978.

We prepared an Information Collection Request (ICR) for these changes to the information collection requirements. We invited the public to comment on the ICR but did not receive any comments.

OMB approved the collection of information contained in these regulations under OMB Control number 1840-0005 on March 2, 2023.

Intergovernmental Review

The proposed regulations are not subject to EO 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on our review, we have determined that these regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

EO 13132 requires us to obtain meaningful and timely input by state and local elected officials in the development of regulatory policies that have federalism implications.

"Federalism implications" means substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. The proposed regulations do not have federalism implications.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

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List of Subjects

34 CFR Part 662

Colleges and universities, Educational research,
Educational study programs, Grant programs—education,
Scholarships and fellowships

34 CFR Part 663

Colleges and universities, Educational research,
Educational study programs, Grant programs—education,
Scholarships and fellowships, Teachers

Miguel A. Cardona,
Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 662 and 663 of title 34 of the Code of Federal Regulations as follows:

**PART 662—FULBRIGHT-HAYS DOCTORAL DISSERTATION RESEARCH ABROAD
FELLOWSHIP PROGRAM**

1. The authority citation for part 662 continues to read as follows:

Authority: Section 102(b)(6) of the Fulbright-Hays Act, 22 U.S.C. 2452(b)(6), unless otherwise noted.

2. Add § 662.8 to subpart A to read as follows:

§ 662.8 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the

part or the application of its provisions to any person, act, or practice will not be affected thereby.

3. Amend § 662.21 by:

- a. Revising paragraphs (c) introductory text and (c) (3);
- b. Redesignating paragraph (c) (4) as (c) (5); and
- c. Adding a new paragraph (c) (4).

The revisions and addition read as follows:

§ 662.21 What criteria does the Secretary use to evaluate an application for a fellowship?

* * * * *

(c) *Qualifications of the applicant.* The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following—

* * * * *

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

* * * * *

PART 663—FULBRIGHT-HAYS FACULTY RESEARCH ABROAD FELLOWSHIP PROGRAM

4. The authority citation for part 663 continues to read as follows:

Authority: Section 102(b)(6) of the Fulbright-Hays Act, 22 U.S.C. 2452(b)(6), unless otherwise noted.

5. Add §663.8 to subpart A to read as follows:

§ 663.8 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice will not be affected thereby.

6. Amend §663.21 by:

- a. Revising paragraphs (c) introductory text and (c)(3);
- b. Redesignating paragraph (c)(4) as (c)(5); and
- c. Adding a new paragraph (c)(4).

The revisions and addition read as follows:

§663.21 What criteria does the Secretary use to evaluate an application for a fellowship?

* * * * *

(c) *Qualifications of the applicant.* The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following—

* * * * *

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

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[FR Doc. 2023-26991 Filed: 12/7/2023 8:45 am; Publication Date: 12/8/2023]