Navajo Nation Office of the Vice President
Statement to the Special Rapporteur on Education

The Navajo Nation Office of the Vice President would like to thank the United Nations Special Rapporteur for the opportunity to present written testimony regarding the content, meaning, and implications of the United Nations Declaration on the Rights of Indigenous Peoples ("Declaration") within the United States of America ("United States") as it relates to indigenous nations education.

In 2009, the Navajo Nation verbally endorsed a report issued by the Expert Mechanism on the Rights of Indigenous Peoples as an "interim report."[1] While the report is in line with the situations that currently exist on the Navajo Nation, we believe the Declaration would fill in the gaps where the United States laws and policies fail. The report the Navajo Nation endorsed points out the challenges faced by indigenous peoples as it pertains to exercising the rights to education.

The Declaration, interpreted in conjunction with other international instruments, provides an authoritative normative framework for the full and effective protection and implementation of the rights of indigenous peoples. In the context of education, the Declaration reaffirms and applies the right to education to the specific historical, cultural, economic and social circumstances of indigenous peoples. Article 14 of the Declaration acknowledges that indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

This reaffirms existing international human rights law, including article 29 (2) of the Convention on the Rights of the Child and article 27 (3) of International Labour Organization Convention No. 169. The right of indigenous peoples to establish and control their education systems and institutions applies to traditional as well as formal education systems and institutions. Numerous provisions of the Declaration (Articles. 1, 2, 3, 4, 8 (1), 8 (2), 12, 13, 14 (2) and (3), 17 (2), 31, and 44) either reaffirm and apply the essence of already existing human rights treaty obligations on the right to education, or are inseparably linked to provision on the right to education of the Declaration, applicable to both traditional and formal education.

As a self-governing sovereign nation, the Navajo Nation strongly recommends first and foremost that we first educate the minds of our own children and secondly define the education in our own terms which are enshrined in Declaration and existing international human rights laws. The goal of the Navajo Nation is to develop an educational system that endorses the Navajo culture by sustaining our language, and promote academic success. In addition, the Navajo Nation has developed laws and policies regarding education and curriculum that is based on our culture, history, literature and language.

In July 2005, the Navajo Nation exercised its right of self-determination by enacting the "Navajo Sovereignty in Education Act of 2005" ("Navajo Education Act"). This act authorizes the establishment of a Navajo School System by creating a set of standards to

[1] Study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education (A/HRC/12/33).

include: accreditation system, certification system and accountability system. As a result of the Navajo Education Act, the Navajo Nation is moving forward and determined to create and operate a school system specifically designed to meet the needs of Navajo students, in accordance with the Navajo education mandates mentioned above.

Currently, the North Central Association ("NCA") accredits the Navajo Nation schools. The standards establish are the same standards followed by the other state school systems within the United States. It is important to note the United States is obliged, collectively and individually, to make quality education available to all indigenous peoples; accessible without any prohibited form of discrimination; acceptable in the light of international human rights standards; adaptable to the conditions where indigenous peoples reside; and are in the best interest of indigenous peoples according to the Declaration and existing international human rights laws. *However, the standards are not focused on meeting the unique needs of Navajo students.*

The Navajo Nation wants to build on the work of the NCA office by creating culturally relevant and bilingual curriculum for Navajo students. The standards will be reviewed and revised in order to fit the needs of Navajo students attending Navajo Nation schools. For example, each operated school will be required to assess the ability of each teacher and student in both speaking and comprehension of the Navajo and English languages. In addition, the Navajo Nation would like to develop its own definition of Adequate Yearly Progress ("AYP") to include **performance standards** based on what the Navajo Nation policy makers foresee their children to know and what their children should be able to perform. These standards would supplement the academic performance standards of the states. For example, these standards will include Navajo culture, language, history and government. Furthermore, the Navajo Nation would like to establish its own licensing requirements and procedures for teachers and administrators in the education community.

Currently, the schools on the Navajo Nation use the licensing provisions of the United States to certify teachers and administrators. In addition, the United States makes important decisions concerning the curriculum of the Navajo Nation schools, the performance standards that need to be met and implementation to correct or fix failing Navajo Nation schools. *There is little, if any, focus on meeting the unique needs of the Navajo students.* The Navajo Nation has little impact on the schools, even those that have been authorized to convert to Navajo affiliated grant or contract schools.

The recent report from the National Center for Education Statistics entitled, "Status and Trends in the Education of American Indians and Alaskan Natives: 2008" makes clear what indigenous nations within the United States already know: United States school system is failing indigenous students, this includes Navajo students. According to the report, the "unique academic and cultural needs of Indian children" are still not being met.

In 2001, the United States Congress enacted legislation that clarified education is a federal trust responsibility. However, the Navajo Nation has repeatedly raised concerns with the United States on the deficiencies between the funding levels for state and private

education systems and the Navajo Nation educational system. Despite limited resources, the Navajo Nation was able to develop its own curriculum to educate Navajo people. In addition, the Navajo Nation continues to insist on exercising its right of self-determination as it relates to education. Below are three means by which this goal, self-determination on education, can be established with the support of the United States:

1. The United States Department of Education could recognize and support the Navajo Nation's Department of [Navajo] Education as a legal entity comparable to that of a State educational agency; and

2. The United States Department of Interior could respond to the Navajo Nation's interest in sovereign control over educational matters through the P.L. 638 contract process for the Navajo Nation to assume educational responsibilities for the Bureau of Indian Education Grant Schools; and

3. The United States Department of Education could write a unique charter with the Navajo Nation's Department of [Navajo] Education that would enable it to serve like a State education agency.

We believe it is our responsibility to ensure that our students receive a quality education because of the mere fact that these students, our children will be our future leaders. When a quality education is absent from the life of any child or student it seriously impacts the livelihood of that individual, this is no different for the education of a Navajo student. Our people need the basic academic skills to raise healthy families and to make positive contributions to benefit our Navajo communities and the community at large.

The Navajo Nation as a society absorbs the impact to the education of our people, thus we are seeking more control of our own destiny and our nation through the development of a Navajo Education system that preserves our language and culture while providing a sound core academic content in reading, writing, math and science. We are confident that our Nation will make significant strides forward given this opportunity to demonstrate our skills and knowledge.

The Navajo Nation recommends the Special Rapporteur to outline in his report to the United States ways and means the Declaration can correct the wrong committed by the United States and look towards the Navajo Nation as a model for further indigenous education.