

# USDE Violations of NALA and the Testing Boycott at Nāwahīokalani'ōpu'u School

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NALA protections have special relevance to Hawai'i, where the local Native American language has official status. The United States has pursued NALA-like policies in its foreign policy, protesting, for example, suppression of Tibetan-medium education in China. Yet, hypocritically, federally imposed NCLB testing is not NALA compliant and the U.S. Department of Education (USDE) suppresses use of Native American languages in schools in Hawai'i and elsewhere. Examined here is the case of the P-12 Nāwahīokalani'ōpu'u School (Nāwahī). Nāwahī has produced 14 years of 100 percent high school graduation and 80 percent college attendance, yet its academic success is federally required to be judged through testing using English — a language not used in the school to deliver academic content. Nāwahī parents have boycotted NCLB testing. While aware of the situation, the USDE has done nothing to address the discrimination. The state has complied with the USDE, while unsuccessfully trying to protect Hawaiian programs. Nāwahī is therefore undergoing corrective action.

## Introduction

The Native American Languages Act of 1990 (NALA) was developed to reverse a history of suppressing Native American languages and the use of those languages by children in schools. The development of NALA, in particular, has had a unique affiliation with Hawai'i and the initiation in Hawai'i of contemporary Native American language immersion education in the 1980s (Arnold, 2001, Wilson & Kamanā, 2001). Hawaiian revitalization education began as an effort to reverse the near extermination of Hawaiian that accompanied federal English-Only requirements imposed on Hawai'i during the six decades of the territorial period (Wilson & Kamanā, 2001). Hawai'i continues to have the largest enrollment of children in Native American language-based education and many Native American language immersion programs maintain connections to innovations and research developed at the legislatively established preschool through grade 12 (P-12) laboratory school site, Nāwahīokalani'ōpu'u (Nāwahī)

School (Wilson & Kamanā, 2011). Nāwahī operates as a total Hawaiian-medium school with all subjects taught through Hawaiian at all grades. Beginning in grade five, students annually study English in a separate second language arts course taught through the medium of Hawaiian.

Language revitalization, academic, and social outcomes at Nāwahī have been strong (Wilson & Kamanā, 2006). Those outcomes aligned with goals of NALA and other federal pronouncements of support for Native American education and Native American language survival. Despite these successes, discrimination against Native languages in schools continues, however, with the United States Department of Education (USDE) failing to comply with NALA and other applicable law. Preeminent among NALA-related issues at Nāwahī School is an ongoing protest against USDE restrictions on the use of Hawaiian in academic testing under the most recent reauthorization of the 1965 Elementary and Secondary Education Act — the No Child Left Behind (NCLB) Act of 2001. The issue centers on the right to testing at all grade levels through the Native American language of instruction. NALA violations under NCLB are part of a larger trend in United States education contrary to international law and best practice that discriminates against use of Native American languages in education and ultimately Native American cultural and religious survival.<sup>1</sup> This article explores the violations against NALA by presenting the case of the ongoing boycott by Hawaiian parents at Nāwahī against federal and state-mandated English-only standardized assessment tests.

## The Educational Failure of Forced Assimilation

In the history of the suppression and forced assimilation of Native American peoples, the role of schooling has been especially notorious (Hinton, 2001b; Skutnabb-Kangas, 2000; Wilson & Kamanā, 2006). Language loss at some level is now universal among Native American communities and interest in language revitalization is growing (Grenoble & Whaley, 2006; Hinton, 2001a; Krauss, 1996, Reyhner, 1996). Forced assimilatory education has not produced high academic outcomes for Native American peoples, be they American Indians, Alaska Natives, Native Hawaiians, or Native American Pacific Islanders, and Native American peoples often have much lower high school graduation rates than national and state averages (Faircloth & Tippeconnic, 2010; Kamehameha Schools Research and Evaluation, 2009; Reyhner & Eder, 2004). The loss of Native American languages also impacts the overall cultural fabric of communities.

The low academic achievement of Native Americans in Anglo-American developed schooling is not due to an inherent incompatibility between organized schooling and Indigenous languages and cultures. Native Hawaiians, for example, have a history of strong Indigenous-language literacy and a full system of schooling through the Indigenous language during the 1800s (Wilson & Kamanā, 2006). In contemporary times, the spread of Native American language-based education for language revitalization purposes has also led to improved

academic outcomes for Native American students (Demmert & Towner, 2003; McCarty, 2003; Wilson & Kamanā, 2011.) These positive academic outcomes are one reason for federal statements of support for Native American language revitalization in education.

### Reaching Academic Goals While Revitalizing Languages

Federal goals for the P-12 education of Native Americans as expressed in the Obama administration's *Blueprint for Reform* (USDE, 2010a) include overcoming achievement gaps among lower performing minorities and improved high school graduation rates. The core goal is for U.S. high schools to graduate students who are "college- and career-ready" (USDE, 2010b). The *Blueprint* also includes specific attention to the unique Indigenous language revitalization needs of "Indian, Native Hawaiian, and Alaska Native Education" "including Native language immersion and Native language restoration programs" and to "develop tribal specific standards and assessments" — the very areas where NALA violations are occurring (USDE, 2010a, 22). Such violations result from approaches toward Native American language education that Meek and Messing (2007) describe as "framing" on an English-language matrix. Essentially English-language matrix framing means that Indigenous languages are treated as foreign languages in their own homelands, rather than as essential skills for all evaluators, administrators, staff, teachers, and students at Indigenous-serving schools. Under an English-language matrix, even the most minimal attention to development of Indigenous language skills among Indigenous children in their own community is approached from explanations through English and based in English vocabulary, English structures, and the cultural heritage of English. Such an English-framing approach teaches Indigenous children that their own languages are valued only as far as they can be viewed through English. Framing Indigenous language learning on such a matrix has had very poor results in terms of actual revitalization of Indigenous languages (Meek & Messing, 2007).

Federal goals for Native American education have already been achieved in large part by Nāwahī School, a total Hawaiian-language medium P-12 site that rejects framing its programming around an English-language medium education matrix. Its student body is over 95 percent Native Hawaiian, with 70 percent from socioeconomic backgrounds appropriate for federal free and reduced lunch status. Its administrators, staff and teachers come from backgrounds similar to their students, with only three non-Hawaiians among them. Hawaiian is not only the language of the classroom, but also the language of school operations and internal administration.

Since its first senior class graduated in 1999, Nāwahī has averaged 100 percent high school graduation and 80 percent college attendance. Nāwahī high school students have graduated from such universities as Stanford, Seattle University, Northern Arizona University, and Loyola Marymount as well as universities in Hawai'i. Over the generation that Nāwahī has been operating it has moved the Hawaiian language in the surrounding community from decades

of moribundity to the present point where approximately one-third of students at the school have spoken Hawaiian as a first language since infancy, with enrollment percentages of such first-language speakers steadily increasing (Wilson & Kamanā, 2011). Yet USDE "English matrix language" framing of NCLB English-medium assessment of Nāwahī seeks to define it as a failing school due to its use of the Hawaiian language and the heritage of the Hawaiian language as the medium of education and its treatment of Hawaiian, not English, as the focus of the academic area of language arts.

### Nāwahī, NALA and the Protection of Indigenous Language Education

Nāwahī is the product of a movement to save Hawaiian from extinction that began in the 1970s. In 1978, the first constitutional convention since Hawai'i statehood in 1959 was held. In the new constitution, Hawaiian was declared an official language of the state with provisions for its teaching in the public schools by teachers with "community expertise." The new constitution also included the recognition of Native Hawaiian "traditional and customary rights," among which the use of the Hawaiian language is of unique importance not only on its own, but also in the exercise of other traditional and customary rights, including distinctive religious traditions (Wilson, 1999).

In 1983, the non-profit 'Aha Pūnana Leo, Inc. was formed to reestablish education through the medium of Hawaiian. Concerned that the federal government would reimpose the suppression of Hawaiian in the schools as it had during the territorial period, the 'Aha Pūnana Leo sponsored the introduction of a resolution in the 1987 state legislature calling on Congress to pass legislation using suggested specific wording that would establish U.S. policy as supportive of the survival of Hawaiian and other Native American languages (Arnold, 2001). That resolution led to an agreement with Hawai'i Senator Daniel Inouye, then head of the Senate Committee on Indian Affairs, to shepherd introduction of the requested bill if the 'Aha Pūnana Leo, Inc. could garner national support from American Indians and Alaska Natives. This was done through securing a supportive resolution from the Native American Languages Issues Institute (NALI) headquartered in Oklahoma, with which the 'Aha Pūnana Leo had developed a relationship over the previous two years. Prominent in partnering with the 'Aha Pūnana Leo in moving the resolution forward was Dr. Ofelia Zepeda, director of the American Indian Languages Development Institute (AILDI) at the University of Arizona. Many others from Native communities throughout the country, especially elders, joined in a strong grassroots lobbying effort that led to the passage of the bill in 1990 (Arnold, 2001). The bill was introduced by Arizona Republican Senator John McCain with Hawai'i Democrat Senator Daniel Inouye as one of seven other cosponsors representing both the Democrat and Republican parties.

Secure with the passage of NALA, the 'Aha Pūnana Leo and families matriculating from the Pūnana Leo preschools into the public school system led



the movement to provide public schooling through Hawaiian statewide. Early partnering between the 'Aha Pūnana Leo and the Hawaiian Studies Program at the University of Hawai'i at Hilo (UH-Hilo) resulted in the establishment of a secure source of curriculum materials for all schools taught through Hawaiian. In the 1998-1999 school year, the movement reached grade 12 and the first graduations took place at Ānuenue and Nāwahī Schools that year. This movement also succeeded in obtaining legislation in 1997 to develop a model laboratory school site at Nāwahī that has since consolidated a Pūnana Leo preschool, a K-8 charter school, and a grade 9-12 standard public school program under the direction of the state-established Hawaiian language college and integrated with a Hawaiian-language medium teacher training program (Wilson & Kawai'ae'a, 2007).

The total Hawaiian-medium model of Nāwahī with English introduced at grade five and Japanese introduced in first grade is parallel to foreign language teaching in European models of education through European languages in their homelands (Pufahl, Rhodes, & Christian, 2001). Like schools in Europe, Nāwahī has produced students sufficiently fluent in English to function well in American English-medium universities, regardless of the fact that in their English-medium college courses, they must learn English terms for some of the academic concepts that students who attended English-medium schools already know. The founders of Nāwahī have felt that the academic, cultural, and work ethic benefits of a total Hawaiian-medium education outweigh the relatively minor challenge of learning a limited amount of extra English terminology in college. The total use of Hawaiian at Nāwahī is seen as playing a major role in producing among its students a strong association of Native Hawaiian identity with high academic achievement and resulting in strong high school graduation and college attendance rates. In support of this belief, the Nāwahī leadership points to the high rate of success of students from Asia and Europe in English-medium universities where foreign student personal ethnic identification with high academic achievement and a strong drive to learn counts much more than the slight advantage that mainstream American students have in having learned some of the English academic terminology in their K-12 education.

The 'Aha Pūnana Leo has made a point of continuing to maintain and further develop relationships with other Native American language revitalization movements to include a network of key sites in Native American language-based education nationally. These sites include standard public schools, charter schools, Bureau of Indian Education schools, and private schools. Among languages involved are Navajo, Blackfeet, Ojibwe, Cherokee, and Central Alaskan Yup'ik Eskimo. One of the achievements of this national network was the recognition of NALA in the 1994 reauthorization of the Elementary and Secondary Education Act, particularly in Title VII Bilingual Education where provisions for special applications in Spanish-medium education in Puerto Rico were extended to include Native American language-medium education throughout the U.S. Those provisions were continued in NCLB in 2001, but the parallels between Native

Americans and the residents of Puerto Rico were not extended into the crucial area of Title I of NCLB.

### NALA Violation in NCLB Mandated Testing

Title I of NCLB, entitled "Improving The Academic Achievement of the Disadvantaged" purports to support Native American language speaking students while actually serving as an instrument of internationally condemned forced assimilation (Skutnabb-Kangas, 2000). Title I mandates state testing through a single test per state provided through the medium of English. While NCLB allows Spanish-medium schools in the U.S. territory of Puerto Rico an exemption to be officially assessed through their medium of instruction, the USDE has denied the same right to schools taught through the medium of Native American languages. The use of Native American languages by Native American students, including Native Hawaiian students, in public education to express their academic achievement is protected in Sec. 1054 of NALA, yet NALA is ignored by the USDE:

*The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs. (NALA, 1990, Sec. 105; emphasis added)*

Title I of NCLB also involves USDE infringement on the rights of the State of Hawai'i to determine its own official languages for use in its educational system and its language arts curricula relative to the distinctive official target languages of those curricula — rights discriminatorily accorded solely to Puerto Rico. This right is specifically recognized in NALA as well:

*It is the policy of the United States to ... fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business. (NALA, 1990, Sec. 105)*

On several occasions the USDE was made aware of the violations of NALA relative to Native American language-based schools and Nāwahī in particular, including a presentation to USDE lawyers during the National Native American Languages Summit on July 13, 2010 in Washington D.C. However, no subsequent changes were made to USDE practices relative to the use of Hawaiian and other Native American languages in schools subject to NCLB.

NCLB Sec. 1111 (b) (2) (D) requires that state testing be consistent with professional standards and be demonstrably valid and reliable. Testing academic content through a language other than the one through which that content is learned is neither consistent with professional standards nor valid and reliable. Furthermore, it is impossible to separate a reading or language arts curriculum — a required area of testing — from a particular language and the heritage of that language. Just as it would be invalid for a European country such as academically

renowned Finland to ban assessment of a school's success in teaching academic areas, including reading, through its medium of education (e.g., Finnish) and force use of a second language taught in the school (e.g., English) as the medium of such assessment, it is also invalid to require a Hawaiian-medium school such as Nāwahī to use English to assess Hawaiian medium taught academic skills. The outcomes on such invalid and discriminatory assessments subject a school community, such as that of Nāwahī, to punitive actions by the state and federal government under Sec. 1116 of NCLB, including a change in curriculum, dismissal of staff, school restructuring, closing of a school, and takeover of the school.

### Responses to NCLB Mandated Testing in Hawai'i

At Nāwahī, NCLB mandated testing through English has resulted in a parent boycott of Hawai'i Department of Education (HIDOE) state testing. The school has seen changing its total Hawaiian-medium curriculum in order to pass a discriminatory test as contrary to best practices in Indigenous language-medium education, especially where the goal is for the Native American language to be the primary language and English as the auxiliary language (Wilson & Kamanā, 2011). Furthermore, to change the curriculum toward an English medium one would be to infringe on parental rights, recognized under NALA, to assure that their Native American children are able to use, practice, and develop their traditional language in public schools, both as individual Native Hawaiians, and as citizens of a state government that has declared Hawaiian an official language designated for use as the medium of public education (Skutnabb-Kangas, 2000).

Federal restrictions on the use of Hawaiian as the medium of education is an infringement on the right of parents to provide their Native American children with a quality education that encourages and supports the survival of their traditional language combined with a number of positive educational outcomes listed in NALA Sec. 104 (Skutnabb-Kangas, 2000):

*It is the policy of the United States to —*

*(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;*

...

*(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support —*

*(a) Native American language survival,*

*(b) equal educational opportunity,*

*(c) increased student success and performance,*

*(d) increased student awareness and knowledge of their culture and history, and*

*(e) increased student and community pride. (NALA, 1990, Sec. 104)*

Unlike Nāwahī, some programs in support of Native American languages have responded to NCLB English-medium testing pressures with changes to their curricula that reduce or eliminate use of the Native American language at various

grade levels (Beaulieu, 2008). Although this has also happened in some schools in Hawai'i, the relatively high level of political support for the local Indigenous language (Wilson, 1999) has played a role in reducing such pressures in Hawai'i compared to other states. The HIDOE lessened pressure on schools taught through Hawaiian by using a NCLB provision designed for temporary mother tongue-medium testing of new monolingual immigrant students in English-medium schools. Using this provision, the HIDOE has developed examinations through Hawaiian for students in grades three and four, while using English-medium state assessments with students in subsequent grades. As an overall strategy, this approach has failed to stand up to USDE violation of the right of the state of Hawai'i to declare its own official languages and determine their use in education. Furthermore, at the same time that this strategy seeks to protect the youngest children most vulnerable to discriminatory testing, it participates in discrimination against the overall population of Hawaiian speakers in the public school system and places the HIDOE in the position of serving as an agent of that discrimination by the federal government.

Under Sec. 1111 (b)(3)(C)(ix)(III), Sec. 1111 (b)(7) and Sec. 1111 (b)(3)(C)(x) of NCLB, students who are limited English proficient and who have not attended school in the U.S. (other than Puerto Rico) for more than three continuous years may be tested through a non-English language with an additional two years added "on a case-by-case individual basis." Discounting Pūnana Leo preschool attendance as schooling in the United States and classifying all children enrolled in schools taught through Hawaiian as qualified participants regardless of their individual proficiency in English or ancestral background, the HIDOE has counted kindergarten through grade four taught totally through Hawaiian as five continuous years in a school in the United States. However, the above referenced NCLB provisions assume that during the covered period, students are attending school through the medium of English and that they are actively being taught English in school with annual testing of the English proficiency gained through such instruction. These features do not hold for Nāwahī and other schools taught through Hawaiian. HIDOE grade three and grade four Hawaiian language testing is simply delaying the medium of testing issue for Nāwahī and other schools taught through Hawaiian to grade five and often higher levels where Hawaiian remains the medium of education.

HIDOE testing through Hawaiian has also included framing around an English-medium matrix. Not surprisingly, therefore, the assessments that have been produced have numerous shortcomings and have drawn numerous objections from schools where the tests are being taken. The Hawaiian medium testing has also been challenged by the USDE. The HIDOE first tried translation of the state English-medium tests, then contracted an original test, and then moved back to a translated test, and then flip-flopped between the two again.

The USDE has pressured the HIDOE to use translation as a means to assure that Hawai'i's English-medium assessment and Hawaiian-medium assessment are "the same" since NCLB Sec. 1111 (b)(3)(C)(i) requires that state tests "be



the same academic assessments used to measure the achievement of all children.” Research in Canada on testing through the two official languages there — French and English — has shown that using a single examination with translation between the two produces outcomes whose comparison is not valid and reliable (Ercikan, et. al, 2004). The differences between Hawaiian and English are much greater than those between French and English. Among the many difficulties with HIDOE translated tests have been major differences in length, making it impossible to compare timed test-taking. The level of difficulty in vocabulary, grammar, and cultural content has also not been comparable and there have been other metalinguistic and cultural issues (Wilhelm, 2005, Wilson, in press).

Other HIDOE difficulties in translating tests from English originals have been spelling and grammatical errors in the Hawaiian version, technological problems in the display of the distinct Hawaiian orthography, misplacement of graphs on computerized Hawaiian tests, and an early instance of a translator deciding to invent new mathematical terms of his own for the Hawaiian examination rather than those used in the schools taught through Hawaiian. Reflecting the public concerns over problems with the HIDOE’s translated assessments, were Senate Bill 3009 and 2177, and House Bill 1986 and 2875 introduced in the 2012 Hawai’i State Legislature requiring the HIDOE to abandon translation in official state testing of children in schools taught through Hawaiian. While these bills did not pass, the issue was extensively vetted in hearings in both the House and Senate. If any of them had passed, legislation of the State of Hawai’i would have been in direct conflict with NCLB, endangering federal educational funding to the state.

There have been fewer problems with the original Hawaiian test called the Hawaiian Aligned Portfolio Assessment (HAPA) contracted by the HIDOE from Pacific Resources for Education and Learning (PREL) (HIDOE, n.d.). But these have included serious objections from the USDE relating to the comparability of outcomes between the state English-medium assessment and the Hawaiian-medium assessment — the “single assessment” issue. As with the translations, difficulties in evaluating outcomes are not simply intrinsic to the process of comparison, but also greatly magnified by educational framing issues and the lack of linguistic and language revitalization sophistication within the educational establishment at both the state and national levels. Those distinctive factors of schooling taught through Native American languages and the very small numbers of students involved are what require special provisions for assessment beyond simply establishing testing through the medium of education as done for Puerto Rico.

### **Specifics of the Boycott**

Since the initial state NCLB testing in 2003-2004, Nāwahī parents have annually discussed the issues of state testing with large numbers deciding to refuse to allow their children to participate in the testing. The testing boycott has included both testing through English and testing through Hawaiian, which is tied to federal

limited-English provisions designed for immigrants assimilating to a new home rather than to Hawaiian being an official state medium of education. Accepting testing under the limited English provisions can be seen as presenting Nāwahī to the federal government as an English-medium school where use of Hawaiian is transitional to English-medium education. Exceptions, however, to the parent boycott of state testing through Hawaiian were made in the three school years 2006-2007, 2007-2008, and 2010-2011, when the majority of third- and fourth-grade students took the Hawaiian-medium HAPA at the special request of the State Superintendent of Education due to a threat that the USDE would cut off all federal funding to the state if Nāwahī parents continued to boycott. In the higher grades, however, boycotting the English-medium testing continued. In the three school years Nāwahī students took the HAPA, 100 percent of students in a tested class met or exceeded the cut-off score in half of all classes assessed, and in no cases did less than 80 percent of a tested class meet or exceed the cut-off score (Kēhaulani ‘Aipia, personal communication, January 12, 2012). Parents returned to including grades three and four in the boycott when the state moved back to the translation for the Hawaiian-medium tests. In the 2011-2012 school year, the testing boycott began to spread to other schools taught through Hawaiian.

The boycott at Nāwahī has not extended to the administration or teachers in their official capacities. That is, the tests are scheduled for students to take with the scores for any students taking the tests officially reported. Parents who have chosen for their children to take the test have generally been a minority in a class subject to testing and insufficient to reach the required number for an adequate measure of the progress of the school. Due to the testing boycott, Nāwahī has been placed on “School Improvement” year II status for 2012-2013, with parents now boycotting the federally required English-medium tutoring of their children.

### **Nāwahī and ‘Aha Pūnana Leo Proactive Academic Assessment Efforts**

As soon as NCLB was passed, the ‘Aha Pūnana Leo obtained the assistance of Dr. William Demmert (Tlingit/Lakota) in developing alternative scientifically-based valid and reliable testing through Hawaiian and then expanded that effort to include partner schools taught through other Native American languages (Rawlins, Wilson, & Kawai‘ae‘a, 2011). These internal Curriculum Based Measures (CBM) assessments demonstrate the school’s commitment to academic excellence, assessment of student progress, and continued academic growth of its students. The CBM assessments differ from other assessments of Hawaiian as they were in having been developed from a strong base in linguistic study of Hawaiian with the potential to be adapted to test features of different dialects. Records for internal CBM testing similar to that at Nāwahī exist in other Native American languages at other Indigenous immersion schools throughout the United States in the national network.

For Nāwahī, academic achievement is seen as something for the students to use in their lives to support the survival of the Indigenous language and culture,

not as an end superior to the survival of the language and the community it defines. This perspective of academics as something to pursue to support the language and its community actually leads to a greater commitment to academics than does the prioritization of academics over the Indigenous language and its survival.

The 'Aha Pūnana Leo also developed English proficiency examinations to provide information on outcomes of Nāwahī's program for mastering English as an auxiliary language to complement Hawaiian as the primary language. Nāwahī's auxiliary language program design includes expanded out-of-school contact with English as children mature along with an English course taught through Hawaiian beginning in grade five and continuing as a single annual course through to grade 12.

English proficiency assessment outcomes at Nāwahī are measures of language learning, similar to the TOEFL (Test of English as a Foreign Language), rather than measures of academic learning in language arts or other content areas. These internal English proficiency assessments demonstrate that students at Nāwahī are learning English parallel to the study of English as an auxiliary language in the Spanish-medium schools of Puerto Rico. The success of Nāwahī graduates in English-medium universities is evidence of the strength of its auxiliary language program in producing graduates who are "college- and work-ready" for English-dominant societies. These outcomes are, again, parallel to those of many foreign school systems that produce graduates who are quite successful in English-medium higher education in the United States in spite of those students being educated in non-English-medium schools where English is studied as a foreign language and where English is taught quite differently than it is in American English-medium schools (Skutnabb-Kangas, 2000; Wilson & Kamanā, 2006). Nāwahī graduates are also very much "college- and work-ready" for Hawaiian language-medium society, including higher education through Hawaiian, in the state Hawaiian language college — an entity, which, like Nāwahī, faces considerable challenges within the English-language framing that affects all levels of Native American education in the United States.

### Continuing Discrimination

The boycott of Nāwahī parents against NCLB mandated testing is in protest of USDE violations of NALA and basic educational rights of Indigenous peoples as listed in the United Nations *Declaration on the Rights of Indigenous Peoples* endorsed by President Obama in 2010. Among several articles that include aspects of Indigenous language use are Article 14 guaranteeing the right to use Indigenous languages as media of education and Article 8 guaranteeing protection from forced assimilation (United Nations General Assembly, 2007). In recent years, the President and Republican members of Congress have criticized China for endangering the cultural and linguistic survival of Tibetans (Associated Press, 2011; Tibet Post International, 2011). Yet, the USDE has carried out practices against Nāwahī and other Native American language-based schools that are directly

parallel to the practices of educational authorities of the government of China that lead to large demonstrations in Tibet against restrictions on the use of Tibetan in schools and a charge from the Dalai Lama that China is engaged in "cultural genocide" against Tibetans (Indo-Asian News Service, 2010; Wong, 2010).

As is clear from the statistics on the status of Native American languages and the history of suppression of Native American languages in schools, the U.S. has carried out a campaign of extermination against its Indigenous languages, just as virulent as the cultural genocide being carried out by China against Tibetans (Hinton, 2001b; Krauss, 1996). Furthermore, USDE actions and those of states that follow its lead are further suppressing Native American languages and the families determined to resist the use of education to eliminate Native American languages altogether as living first languages essential for distinctive Indigenous cultural and religious traditions practiced outside the schools. Private foundations, and unfortunately even Native American governments, that choose to use federally mandated testing and guidelines for Indigenous education are complicit in the discrimination against Native American language-based education and ultimately Native American language extermination (Wilson & Kamanā, 2006).

As shown by Nāwahī high school graduation and college attendance rates, USDE actions suppressing Native American language are not necessary to assure positive academic outcomes for Native Americans. Nāwahī's statistics also show that USDE Native American language suppression is not even necessary to provide students access to second language oral and written proficiency in English to provide access to the larger society. States that have followed USDE-promoted best practices have not significantly improved academic or social outcomes for Native American students, nor have they shown positive outcomes in retaining or revitalizing Native American languages in accordance with internationally recognized human rights. Indeed, there is evidence that detailed following of federal directives and guidelines for Native American education, including early childhood education, has played a role in eliminating childhood fluency in Native American languages still spoken in the home (Wong Fillmore, 2011).<sup>2</sup> These negative outcomes relative to the survival of Native American languages can be directly related to systematic educational framing around an English matrix that works against Native American languages (Meek & Messing, 2007).

Within the tradition of American popular democracy, the issue of Native American language-based education suppression goes beyond the federal government. Instead of moving to incorporate international law and best practices for Indigenous language-medium education into their platforms, large U.S. national educational movements lobbying Congress relative to Common Core Standards, early childhood education standards, and teacher education standards have largely ignored the unique needs of Native American language-based schools like Nāwahī. Indeed, these lobbying groups have played a major role in supporting the development and passage of discriminatory non-NALA compliant federal educational legislation such as that supporting the testing practices being boycotted at Nāwahī (Skutnabb-Kangas, 2000).



Lobbying groups supportive of Native American language survival and the positive academic results that have come from schools taught through Native American languages could join with schools like Nāwahī in seeking federal and state government compliance with NALA and the United Nations *Declaration on the Rights of Indigenous Peoples*. The USDE might, for example, establish a policy allowing the choice of using CBM assessments for any grade taught at a level of 75 percent or more through a Native American language along with special provisions for teacher qualifications and alternative individual Native American language-specific approaches to “common core” curricula. This choice might come with a requirement of some sort that a school participate in the national network of schools using such assessments and follow certain best practices developed and coordinated within that network. Parents might also be given the option of having their children tested using mainstream English-medium assessments and using those results to determine whether they wish to continue the enrollment of their child in education through the Native American language.

The Nāwahī parent boycott of USDE coercion to test through English rather than the Hawaiian language used as the medium of education is an example of Native American families being inspired by NALA to resist forced language loss and assimilation. The difference in USDE treatment of Puerto Rico’s Spanish-medium schools and Native American language-medium schools such as Nāwahī, even in a state where the Native American language is an official language, is clear evidence of discrimination by the federal government. That discrimination needs to end.

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### Notes

<sup>1</sup>Among NCLB violations of provisions of NALA not addressed in this article are those relating to classification as “highly qualified” for otherwise qualified teachers who teach through Native American languages (NALA, Sec. 104 [2]). Also not addressed are the findings of NALA (Sec. 10 [3]) on the effect of Native American language suppression on the survival of Native American religions expressed through Native American languages. In *Wisconsin versus Yoder*, for example, a case involving the culturally distinctive Amish, the U.S. Supreme Court ruled that Amish children were exempt from compulsory education past eighth grade because of the parents’ fundamental right to freedom of religion (U.S. Supreme Court, 1972).

<sup>2</sup>Wong Fillmore (2011) speaks of the role of Head Start in eliminating childhood use of Native American languages in spite of Head Start superficially encouraging use of Native American languages in their programs. Similar framing discrepancies have resulted in government and private preschool tuition support in Hawai‘i moving parents toward

English-medium preschools rather than toward the Pūnana Leo in spite of state government laws and private foundation goals that seek to promote Hawaiian language and culture maintenance and learning.

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