



THE HON JULIA GILLARD MP
DEPUTY PRIME MINISTER

Parliament House
Canberra ACT 2600

Mrs Julia Irwin MP
Member for Fowler
Parliament House
CANBERRA ACT 2600

22 JUN 2010

Dear Mrs Irwin

Thank you for your letter of 25 May 2010 concerning the school and workplace bullying petition recently submitted for the consideration of the Standing Committee on Petitions. The Australian Government takes issues of bullying seriously and believes student and workplace wellbeing and safety are essential for education and career success. All Australians should be able to learn and work in safe and supportive environments. The Government is determined to ensure schools and workplaces are supported in providing for the wellbeing of their students and employees.

Although the Government does not have jurisdiction to intervene in cases of bullying and associated legislation, as part of its collaborative and leadership roles in developing national priorities for education and workplace safety, there are very important initiatives currently being undertaken to support state and territory governments.

Firstly, the Government is leading a review of the National Safe Schools Framework (NSSF). The NSSF emphasises the need for teachers to have appropriate training in positive student management and the need for schools to respond to incidents as they occur. The Government believes too that tackling and addressing bullying behaviours are of utmost importance. Through the Review, linkages will be drawn with other wellbeing and child protection issues including: the emergence of technologies that enable new forms of bullying to develop; social and emotional learning; the explicit teaching of values; and changes in state and territory legislation and government policy.

The NSSF is the only framework of its kind in the world and the Review ensures that it remains current and relevant in today's context. By instigating the Review, the Government has ensured that Australia maintains its leading edge in promoting safe and supportive schools.

The project is identifying connections with other Australian Government and state and territory policies relating to the wellbeing of children and by drawing these critical links, schools will be made aware of other useful resources used to support the wellbeing of young people across the country.

The role of parents and carers is also being examined to explore ways of encouraging them to become involved with their child's school and continuously promote a safe school environment. By involving this important group of people, a whole-school community approach to promoting safe schools can be established.

The NSSF and the supporting documents will be re-written and will be available for online use by schools, thereby ensuring the Framework becomes a device available to schools to use proactively to help prevent or reduce the incidence of bullying and violence as well as providing an active tool for dealing with issues as they arise.

All Australian schools currently have access to the NSSF and following the Review, the updated Framework will also be made available for use by all schools to guide them through the development of policies and practices to manage proactively the incidence of violence, aggression and bullying in schools. Further information about the NSSF and the review is available at www.safeschools.deewr.gov.au.

With regard to workplace safety, the harmonisation of Occupational Health and Safety (OHS) laws is a priority area of regulatory reform. All governments have committed to adopt uniform OHS laws, complemented by nationally consistent approaches to compliance and enforcement. This will be achieved through the development of model OHS laws that can be uniformly adopted by all jurisdictions to provide the same rights, obligations and protections for all Australian workers.

Safe Work Australia, a tripartite body comprising representatives of the state and territory governments, the Australian Government, workers and employers is developing the model laws in accordance with decisions of the Workplace Relations Ministers' Council (WRMC).

In December 2009 the WRMC endorsed the model Work Health and Safety Act. The endorsed model Act was drafted by Safe Work Australia in line with policy decisions previously made by the WRMC and with input from a public consultation process. In endorsing the model Act, Ministers were very mindful of the national interest and the significant benefits that will flow from harmonised laws in this important area. Each jurisdiction has committed to take all necessary steps to enact or otherwise give effect to the model Work Health and Safety Act.

Safe Work Australia is currently working on a package of draft model regulations and draft priority codes of practice to support the agreed model Act. There will be a 4 month public comment period later this year which will provide anyone with an interest in the model Work Health and Safety laws the opportunity to provide feedback to Safe Work Australia on the package of model regulations and priority codes of practice. There will be associated campaigns to raise public awareness of this consultation process.

Although most current OHS laws do not specifically address workplace bullying, all, OHS Acts impose legal responsibilities on both employers and employees. For example, under section 16 of the *Occupational Health and Safety Act 1991 (Cth)* employers must take all reasonably practicable steps to protect the health and safety of the employer's employees. Similarly, under section 21 of the *Victorian Occupational Health and Safety Act 2004*, employers have a duty of care to provide a safe working environment that is without risk to the health and safety of their employees.

This duty of care requires employers to take proactive steps to identify those hazards with the potential to affect the health and safety of their employees and to implement measures to eliminate or control the risks arising from those hazards. The duty extends to psychosocial hazards in the workplace including bullying behaviours. All jurisdictions have also published codes of practice or guidance material dealing with bullying.

Under the model Work Health and Safety Act, the health and safety duty requires a person conducting a business or undertaking to ensure, so far as reasonably practicable, the health and safety of workers (covering all types of workers including employees, volunteers, apprentices and contractors) while the workers are at work in the business or undertaking. Workers also have a duty to take reasonable care for their own health and safety, as well as that of other persons. The model Work Health and Safety Act makes it clear that 'health' means physical and psychological health and provides for a variety of enforcement options, including imprisonment, for breaches of the health and safety duty.

In addition, where bullying is linked to or based on attributes including a person's sex, disability, race, age, sexual preference, criminal record, trade union activity, political opinion, religion or social origin, it may be covered under federal and state anti-discrimination legislation. More information on this legislation is accessible online at www.hreoc.gov.au.

I appreciate your bringing the petition to my attention, and trust this information is of assistance to the Committee and petitioners.

Yours sincerely

Julia Gillard
Deputy Prime Minister