

**Bias-Related Harassment** (or violence) is described by the New York City Commission on Human Rights as conduct that is motivated by a victim's race, color, creed, national origin, gender (including gender identity), sexual orientation, age, marital or partnership status, family status, disability, alienage, or citizenship status.

**Bias-motivated conduct** may include a pattern of threatening verbal harassment or cyberbullying, the use of force, intimidation or coercion, and defacing or damaging real or personal property. For more information see:  
[www.nyc.gov/html/cchr/html/bias.html](http://www.nyc.gov/html/cchr/html/bias.html)

**Bullying** has been described by the U.S. Department of Education as unwanted, aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. According to the U.S. Department of Education, bullying generally involves the following characteristics:

- An Imbalance of Power:
- Intent to Cause Harm:
- Repetition:

Individuals who bully use their power, such as physical strength, access to embarrassing information, or popularity to control or harm others. Power imbalances can change over time and in different situations, even if they involve the same people. The person bullying has a goal to cause harm. Bullying is not accidental. Bullying behaviors generally happen more than once or have the potential to happen more than once. Examples of bullying include, but are not limited to:

- **Verbal:** Name-calling, teasing, inappropriate sexual comments, taunting and threatening to cause harm.

It should be noted, for reference purposes only, that the Empire State Pride Agenda refers to sexual orientation as one's romantic and sexual attraction. Gender expression is not in itself any indicator of sexual orientation. Moreover, according to the Empire State Pride Agenda, just like everyone else, gender non-conforming and transgender people may be straight, lesbian, gay, bisexual or asexual.

[www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx](http://www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx)

- **Social:** Spreading rumors about someone, excluding others on purpose, telling other children not to be friends with someone, and embarrassing someone in public.
- **Physical:** Hitting, punching, shoving, kicking, pinching, spitting, tripping, pushing, taking or breaking someone's things and making mean or rude hand

gestures. For more information see: [www.stopbullying.gov/what-is-bullying/index.html](http://www.stopbullying.gov/what-is-bullying/index.html)

- **Cyberstalking** - Repeated harassment that includes threats of harm or that is highly intimidating and intrusive upon one's personal privacy.

**Denigration – “Dissing”** someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.

**Ethnicity** - According to the United Nations, some of the criteria by which ethnic groups are identified are ethnic nationality (in other words, country or area of origin as distinct from citizenship or country of legal nationality), race, color, language, religion, customs of dress or eating, tribe or various combinations of these characteristics. In addition, some of the terms used, such as "race", "origin" and "tribe", have a number of different connotations. It is important to consider both how a student self-identifies and how he or she is perceived in the school when determining if race and/or ethnicity were the basis of discrimination or harassment directed at the student.

(<http://unstats.un.org/unsd/demographic/sconcerns/popchar/popcharmehods.htm>)

While the terms “race” and “ethnicity” have similarities, they are not identical concepts. For example, a student may self identify as both “Black” and “Latino”. “Black” may describe their race and “Latino” (an ethnic term), may indicate their ancestry, family and/or language traditions. Neither of these terms describes the student's national origin. As such, in this example they may be American, Cuban, Dominican, Guatemalan, etc.

**Flaming** - Online fights using electronic messages with angry and vulgar language.

Gender Identity and Expression is an individual's internal sense of being a man, a woman, a boy, a girl, or something outside of these binaries. Since gender identity is internal, it is not necessarily visible to others. Some ways in which people may express or represent their gender include dress, hair style, mannerisms, body characteristics, name and pronouns. This has also been described by the Empire State Pride Agenda as the way in which people self-identify and present their masculinity and femininity to the world.

[www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx](http://www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx)

**Gender identity** is not the same as sexual orientation—people of all different orientations can identify and express their gender in many different ways. Students may face harassment or bullying because they are “gender non-conforming,” meaning they express their gender in a way that does not conform to society's

expectations, regardless of their sexual orientation. See, *Saint Francis College v. Al-Khazraji*, 481 U.S. 604, 610 (1987)

***Happy Slapping*** - An extreme form of bullying where physical assaults are recorded on mobile phones or digital cameras and distributed to others.

***Impersonation*** - Breaking into someone's account, posing as that person and sending messages to make the person look bad, get that person in trouble or danger, or damage that person's reputation or friendships.

***LGBTQ*** is an acronym that stands for lesbian, gay, bisexual, transgender, queer, or questioning. Lesbian, gay, and bisexual are terms used to describe a person's sexual orientation; people of all different orientations can identify and express their gender in many different ways. Students may face harassment or bullying because they are "gender non-conforming," meaning they express their gender in a way that does not conform to society's expectations, regardless of their sexual orientation and whether or not they identify as transgender. For more information, see: [www.prideagenda.org/issues-explained/transgender-equality-and-justice/quick-facts.aspx](http://www.prideagenda.org/issues-explained/transgender-equality-and-justice/quick-facts.aspx)

***Microaggressions*** - Brief, everyday exchanges, verbal and non-verbal, that send messages to certain individuals that because of their group membership, they have little worth. These small exclusions, expressions, and gestures can affect the quality of life and standard of living for students who are members of marginalized groups, and they create disparities in education. They are often overlooked as contributing to negative school climate. Some examples include:

- Avoiding an empty seat in class because it is next to a larger girl.
- Heavy sighing to indicate disapproval each time a student of a particular race walks into the classroom.
- Leading classroom discussions that assume all students are heterosexual, for example, using classroom materials that define marriage as between a man and a woman. The common phrase "that's so gay" is not directed at individuals, but consistently reinforces that "gay" is negative or undesirable.

National Origin Discrimination has been described by the U.S. Department of Justice as discrimination based upon an individual's nationality, country of birth or country of origin, or the country of origin of an individual's family or spouse. It also includes discrimination based upon a person's characteristics that are identified with a particular country or national origin, such as dress, accent, language, religion, or racial attributes. [www.justice.gov/opa/pr/2001/December/01\\_crt\\_656.htm](http://www.justice.gov/opa/pr/2001/December/01_crt_656.htm)

It is important to consider both how the student self-defines his or her national origin, and how he or she is perceived by others in the school. For example, students

of South Asian descent may be harassed by other students who perceive them to be of Arab descent; regardless of the fact that the students are not actually Arab-American, this harassment would be based on their perceived national origin.

A classification of racial microaggressions :

**Microassaults:** Conscious and intentional actions or slurs, such as using racial epithets, displaying swastikas or deliberately serving a white person before a person of color in a restaurant.

**Microinsults:** Verbal and nonverbal communications that subtly convey rudeness and insensitivity and demean a person's racial heritage or identity. An example is an employee who asks a colleague of color how she got her job, implying she may have landed it through an affirmative action or quota system.

**Microinvalidations:** Communications that subtly exclude, negate or nullify the thoughts, feelings or experiential reality of a person of color. For instance, white people often ask Asian-Americans where they were born, conveying the message that they are perpetual foreigners in their own land.

**Persistent and/or Pervasive:** These terms are often used in the context of harassment lawsuits brought under federal civil rights laws. While they are not used in the text of the Dignity Act, they can act as guideposts for schools in determining the seriousness of student behavior. These terms are often used to distinguish behavior that is not particularly severe and therefore may go unnoticed.

**Persistent** refers to behavior that may not be particularly significant in one incident but that is repeated over time in such a way that it creates a hostile environment. For example, a student shoves another student every day in the hallway. The shoves aren't serious and don't cause injury, but over the course of weeks or months they can contribute to the school becoming a hostile environment for the targeted student.

**Pervasive** refers to behavior that is relentless and encompasses an entire school building, classroom, or other situation. For example, a gay student who is not necessarily targeted by one other student but is called various slurs on a day-to-day basis, is excluded from peer groups, and experiences a classroom learning environment that reinforces his "otherness" (for example, a textbook that defines marriage as between a man and a woman) could be said to be experiencing pervasive harassment leading to a hostile environment.

**Outing** - Sharing someone's secrets or embarrassing information online. Race has been described by the National Center for Education Statistic as the groups to which individuals belong, identify with, or belong in the eyes of the community. It is important to consider both how a student self-identifies and how he or she is

perceived in the school when determining if race and/or ethnicity were the basis of discrimination or harassment directed at the student.

<http://nces.ed.gov/ipeds/reic/definitions.asp>

For reference purposes, it should be noted that the New York State Education Department (Department) reports aggregate racial and ethnic data to the U.S. Department of Education in the following seven categories: (1) Hispanic/Latino; (2) American Indian or Alaskan Native; (3) Asian; (4) Black or African American; (5) Native Hawaiian or Other Pacific Islander; (6) White; or (7) Two or more races. However, this is not a complete list of races or ethnicities that are protected by the

***Dignity Act***—the Dignity Act protects students against harassment, discrimination, or bullying based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. Example: A student with dark skin may be harassed for being “black” in a majority white school, and is entitled to the same protection regardless of whether the student identifies as African, Caribbean, South Asian, Latino, or Pacific Islander. It is likely that schools will experience instances where a student’s experience is based on a combination of both race and ethnicity (and other factors as well).

***Religion*** may be defined, according to the United Nations, as either religious or spiritual belief of preference, regardless of whether this belief is represented by an organized group or affiliation with an organized group having specific religious or spiritual tenets.

<http://unstats.un.org/unsd/demographic/sconcerns/popchar/popcharmehods.htm#J>

***Religious Practice*** - According to the U.S. Equal Employment Opportunity Commission, religious observances or practices include attending worship services, praying, wearing religious garb or symbols, displaying religious objects, adhering to certain dietary rules, proselytizing or other forms of religious expression, or refraining from certain activities. Determining whether a practice is religious turns not on the nature of the activity, but on the person’s motivation. The same practice might be engaged in by one person for religious reasons and by another person for purely secular reasons. Whether or not the practice is “religious” is therefore a situational, case-by-case inquiry.

[www.eeoc.gov/policy/docs/religion.html#\\_Toc203359487](http://www.eeoc.gov/policy/docs/religion.html#_Toc203359487)

As noted above, religion may be defined, according to the United Nations, as either religious or spiritual belief of preference, regardless of whether this belief is represented by an organized group or affiliation with an organized group having specific religious or spiritual tenets.

<http://unstats.un.org/unsd/demographic/sconcerns/popchar/popcharmehods.htm#J>

Therefore, a student's belief system may come from a recognized religious authority, or it may not; either way, the student is entitled to the same protection from discrimination and harassment based on his or her actual or perceived religion or religious practice at school. Harassment, based on a student's religion, could be, for example, other students mocking him for being Jewish; discrimination, based on a student's religious practice, for example, could be a teacher requiring that a student remove a head covering required by the student's religion.

**School Climate:** Educating the Whole Child Engaging the Whole School: Guidelines and Resources for Social and Emotional Development and Learning (SEDL) in New York State, adopted by the New York State Board of Regents in 2011, refers to school climate as the quality and character of school life. School climate promotes or complicates meaningful student learning. Two aspects of school climate, commitment to school and positive feedback from teachers, have been shown to affect students' self-concept. School climate is also a major influence on teacher retention.

For more information see: <http://www.p12.nysed.gov/sss/sedl/SEDLguidelines.pdf>

**Sex** – Sex is the biological and physiological characteristics that define men and women. Sex is different than gender, and people may have gender identities or gender expressions that differ from their sex. Sex and gender discrimination and harassment may also overlap, particularly when a student is gender-non-conforming, meaning he or she expresses his or her gender in a way that does not conform to society's expectations. Harassment directed toward that student may take the form of both sexual harassment and gender harassment.

- Some examples:
  - Male students catcalling at a female student in the hallway is harassment based on sex.
  - Male students making comments about another boy's body in the locker room is also harassment based on sex.
  - A student bullying a female classmate because she shaves her head is harassment based on gender. The bullying is based on the other students' belief that she has a "boys' haircut" and is "acting like a boy;" in other words, she is bullied because she doesn't conform to gender stereotypes about girls.

The World Health Organization has stated that sex refers to the biological and physiological characteristics that define men and women.

[www.who.int/gender/whatisgender/en](http://www.who.int/gender/whatisgender/en)

**Sexting** has been described as the sending, receiving or forwarding of sexually suggestive nude or nearly nude photos through text messages or email.

For more information see:

[www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en\\_US&PageId=4131](http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=4131) and

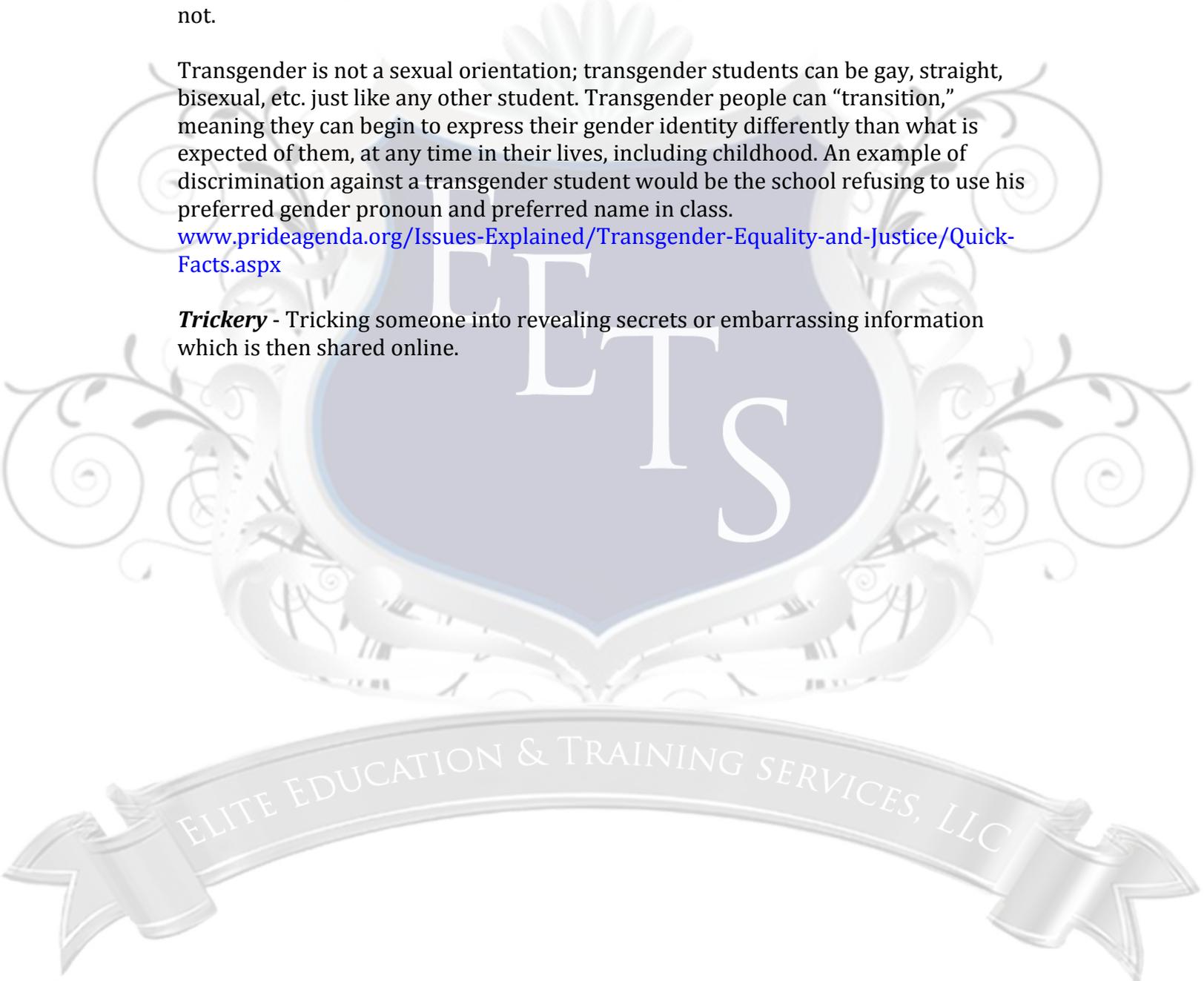
[http://criminaljustice.state.ny.us/missing/i\\_safety/i\\_intro.htm](http://criminaljustice.state.ny.us/missing/i_safety/i_intro.htm)

**Transgender** has been described by the Empire State Pride Agenda as an umbrella term that refers to people who identify their gender differently from what is traditionally associated with the sex assigned to them at birth. This includes people who have undergone medical procedures to change their sex and those who have not.

Transgender is not a sexual orientation; transgender students can be gay, straight, bisexual, etc. just like any other student. Transgender people can “transition,” meaning they can begin to express their gender identity differently than what is expected of them, at any time in their lives, including childhood. An example of discrimination against a transgender student would be the school refusing to use his preferred gender pronoun and preferred name in class.

[www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx](http://www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx)

**Trickery** - Tricking someone into revealing secrets or embarrassing information which is then shared online.



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